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HISTORY

OF

INSURANCE IN PHILADELPHIA

FOR

TWO CENTURIES

(1683—1882)

BY

J. A. FOWLER.

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PHILADELPHIA:

REVIEW PUBLISHING AND PRINTING COMPANY, N. W. CORNER WALNUT AND FOURTH STREETS.

1888.





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## PREFACE.

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In the play, Hamlet, not Shakspeare, speaks. In historic composition, the events, the persons and the acts should tell their own story without the appearance of the historian himself in the scenes; and this is to say that the narrator or describer should get out of himself, lose himself in what he narrates or describes. He, *himself*, is not in any part the subject of his writing. His expression will, it is true, be colored by his animus, but his office is not that of opinionator, critic, advocate, or antagonist, though he is to be synthêtic, analytic, delineatory, and explanatory. In accordance with such doctrine, or theory, this volume has been constructed.

Perhaps to the subsequent pages the place assigned will be mid-way between simple compilation and formal historic representation. Beyond being, however, an arrangement of data in their chronological order, these pages group occurrences in the order of their significance, presenting them in their evolutionary relations. The book is a record of a special economy in a particular place. It traces the growth of that economy in formulæ and practices, but in detailing it, it was ever to be recognized that Insurance is not a local product or peculiarity, but a usage of civilized nations, arising out of their mental, social and material advance. It is a product or recombination of many branches of knowledge. This history of insurance in Philadelphia for two hundred years is an epitome of insurance in general for such period.

In the manifold connections of the subject the work became, and necessarily became, not only a history of Philadelphia insurance, but an insurance history of Philadelphia; and this means a view of the conditions and elements of a social state from a given standpoint. It is part of the life-story of a people, and not of the chronicles of government.

This account began in a lengthened Retrospect, traversing the two centuries, which appeared in the monthly issues of the *American Exchange and Review* from November, 1882, to July, 1886, and was begun, and largely continued, with no purpose to make a formal historical presentation; but the developments attending the preparation of the Retrospect served to call for another treatment of due scope and adequate method. Hence this History. New material, fresh discoveries, more copious testimony on certain points, distinguish the History from the Retrospect, as well as difference in construction. It was and is a novel essay. There are *collectanea* of insurance documents and data, local and company sketches, something of annals and chronicles; but *this* is strictly the only insurance history, or attempt at such history, ever written. In an effort heretofore untried there is likely to be more or less of failure, and the first venture in a work of this description may be pardoned its errors and deficiencies. If the project to write the history of a State or a people would be a vain discursiveness without a proper statistical basis, this History in something avoids such defect by being an enumerative narrative. Whatever particular is told is shown not so much as it relates to itself, as it is as a *part* of the *whole*.



## PREFACE.

In historic depicting, as in the painter's art, some objects are in the foreground in distinct portraiture, others are but shadowy suggestions in the distant perspective. But as indicated, in the volume here presented the thing itself is put down, so far as noted or introduced, not a mere reference to it or a mere estimate of it. This has involved much transcription, citation and express formal statement. In such matters the errors denominated clerical seem to be almost unavoidable; the author is, however, not without hope that here such have been reduced to the minimum. Insurance as a legal contract calls, in any exhibit of its development, for the processes and progress of its adjudication; this has been shown in relation to the Pennsylvania contract by numerous decisions, but in part the quotations therefrom have been extended by reason of the circumstance that law reports have been often the only record of the facts related in them.

For something of the documentary contents of this collection, or documentary evidence of statements made herein, the author and compiler is indebted to underwriters, and acknowledges his obligations to them. To the antiquarian research and careful collection of Mr. Charles R. Hildeburn, secretary and librarian of the Athenæum, Philadelphia, compiler of the work named *A Century of Printing*, being collected titles of the Issues of the Press of Pennsylvania, 1685-1784, who is the possessor of the oldest Philadelphia insurance policy extant, the observer and the student of this panorama of two centuries will owe the gratification and the instruction arising from the presence, in the ever-changing view, of some elucidative memorials of the olden and the dim.

To make the work technical in scope and yet not technical in mode, to escape dulling the narrative without weakening the technique, have been dilemma and problem; how far achievement and solution have been attained in such opposing conditions is to be determined by the judgment of the reader.

# INTRODUCTION.

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THE insurance topic is one and diverse; and such are its diversities that the maxim or saying, fallacies lie in generalities, has very direct and peculiar application to it. This question has been propounded: "Was insurance known to the ancients?" and the answers to it have been various and inconclusive. With something of like suggestion and vagueness it could be asked: Was science, or were the methods of prudence, known to the ancients?

The inquiry named as to insurance indicates for its treatment the requirement (as preliminary to right investigation) of a specific answer to this interrogatory: What is insurance? With sufficient comprehensiveness for the purpose of these remarks, insurance may be defined as security regulation, comprising, 1, remuneration for loss or deprivation; 2, monetary benefit as contingency or accrument; 3, estimate or calculation of the occurrences of casualty. In its direct and collateral narratives, if it can be said to have any, insurance shows four successively, if somewhat irregularly, arising conditions: 1, associated practice; 2, individual wager; 3, cost of security; 4, formal legal contract. Its development has been through the stages of Protection, Average and Anticipation of Recurrence.

There is a legend in which, by an arrangement of the respective members of a community, an ass of like quality for one lost or killed was to be given to the owner of the beast lost or killed. Here the idea was simply that of making good a loss—express restoration without any consideration of the elements of jeopardy. It was, however, *all* sharing in an unfortunate happening to *one*; and it was not one standing in place of another and taking so much or all of a peril to that other one upon himself. All as security of each, and one as security of another, are diverse insurance operations.

We may say that premium (discarding its etymology) considered simply as price or charge, or cost according to happening, originated in commercial maritime usages; that is to say, in the average contributionship in case of jettison declared and methodized in Rhodian law, nine hundred years (*circum*) before the Christian era. Further than this, premium as anticipatory of loss in degrees, or cost of security, existed in the rates of maritime interest exacted for commercial loans in ancient Greece and Rome when contingencies of sea perils. A much quoted respondentia bond recited by Demosthenes in an oration (about 350 B. C.), against Lacritus, brother and heir of one of the borrowers, thus specifies hazard and cost thereof:—

Androcles, of Sphettœ, and Nausicrates of Carystus, having loaned to Artemon and to Apollodorus, of Phaselis, three thousand drachmæ of silver upon a cargo to be conveyed from Athens to Mende, or to Scione, thence to the Bosphorus, and, if they chose, along the left coast as far as the Borysthenes, to return to Athens; the borrowers shall pay interest at the rate of 225 in the 1,000, but if they do not pass from the Black Sea to the Temple until after the setting of Arcturus, they shall pay 300 interest in the 1,000. They pledge for the sum loaned three thousand jars of Mendean wine, which they shall convey from Mende, or from Scione, on board a ship of twenty oars of which Hyblesius is captain. They neither owe nor shall borrow anything from anybody upon the wine appropriated to this loan.

Principal and interest were due upon the safe return to Athens; security for the payment thereof in full, deducting losses from jettisons and enemies, being the return cargo and the property of Artemon and Apollodorus. But,

If the borrowers do not load on return into the Black Sea, or if, remaining in the Hellespont ten days after the Dog Star, they discharge their merchandise in a country where the Athenians cannot carry out the sale of the pledges which have been given them, when they return to Athens they must pay interest upon their debt at the rate of the preceding year. If any considerable accident occur to the ship whereon the merchandise is loaded, the right of the creditors shall be limited to the goods which have escaped it.

Two governmental provisions against mischance, with one or two other Roman incidences, have been cited as showing elementary insurance practices, apart from contributions for jettisons, and also apart from maritime interest, previous to and contemporaneous with the Cæsars. Livy, who died A. D. 17, relates that during the republic of Rome, about two years after the battle of Cannæ (or 214 B. C.), the State agreed to bear all losses (from captures, perils of the sea, etc.), sustained by the cargoes of contractors supplying Roman armies abroad with munitions of war, provisions and other commodities, and did so bear the losses, which were accompanied with the fraud now characterized as moral hazard. The biographer Suetonius, born A. D. 70, in his life of Claudius Cæsar, whose reign began A. D. 41, says that that emperor, in a time of apprehended famine, to encourage the importation of corn into Rome, took upon himself any losses arising from storms. These were, however, but government bounties for services of public utility. They fulfilled the purpose of insurance outside of the insurance method, which essentially involves security as a cost, but they seem to evidence the non-existence in Rome, at the time, of a specific rate as cost of security for the value of the respective shipments. Yet these transactions embraced the condition of transfer of risk.

If A be worth 200 pieces, and take upon himself the result of a venture or condition of B involving the peril of the value of 200 pieces, there is but a transfer of risk; as to A, 200 pieces, less the consideration received for the transfer, are in peril. If A be worth 400 pieces, and take upon himself another like and equal peril from C, the peril of the 400 pieces, less the price of transferring risks, is otherwise and less in ratio than the peril of the reduced 200 pieces.

In the Justinian Digests promulgated A. D. 529, it is mentioned as in a contract: "If such a ship arrive from Asia I will give you such a sum [ $a$ ]; if it do not arrive you will give me such a sum [ $b$ ]." If he who made the offer had a risk in the ship, he was bargaining for the transfer of the risk for a consideration, and here was price of security agreed upon in advance, not assessment for loss, as in the case of jettison, provided the two sums were somewhat proportioned, as the chance of arriving [sum of  $b$ ] to the chance of not arriving [sum of  $a$ ]; *i. e.* the rate of premium was  $= \frac{a}{b}$ .

Between the mere venturing upon the relative chances of happening and not happening, and the issue of an event concerned in at so much value, was respectively the difference between no risk and a risk. For the peril of the party at interest in Roman sea loans there was an assignable value or charge (*pretium periculi*); there was no peril to one who had no interest. The distinction between compensation for risk and wagering upon chance appears in the twenty-second book of the Justinian Digests, title 2, thus, from Scævola:—

*Periculo pretium.* The price or compensation for risk is whatever is given over and above the money received on a penal condition not actually existing, provided the contract out of which the condition is to arise is not a gaining or wagering kind, as these: *if* you manumit, you do not do such a thing; *if* I shall not recover from sickness, &c. But there is no doubt when money is loaned to a fisherman to be repaid in case he shall catch fish, or to a prize-fighter to fit himself for the combat, to be repaid in case he shall come off victor.

Now as to the price of the risk, *pretium periculi*, otherwise than as to maritime loan, it is to be considered that in whatever form insurance may have existed in the sixth century of the Christian era, it was not otherwise than mere transfer of risk at a venture, and its price; and in any association of interests there would be a normal transfer or shifting of particular individual peril; all would then pay for the losses of some; consequently all would be security for each.

As Italian commerce was practiced immediately after the year 1000 A. D., the *società* and the *accomenda* were prominent instrumentalities. The former was an association of capitalists and traders, in which the trader doing the work contributed half as much capital as the capitalist *par excellence*; and as profits were equally divided as a rule, the knowledge and



labor of the trader were equal to half of a contribution to capital. That is, 500 pieces contributed by the trader were equal to 1,000 contributed by the capitalist. In the *accomenda* the whole fund was made up by the adventuring capitalists and entrusted to the master of a ship or other person (*accomendatorio*) for trading purposes. As the contract of the *società* was a joint venture, the contracting parties sharing in the profit or loss, whether the latter was of trade or account, no risk clause appeared at the earliest dates; but in the *accomenda* the entrusted party declared that he carried the money or goods *ad tuum risicum, ad tuum fortunam*. (E. Bensa—*Il Contratto di Assi*.)

The collection of maritime laws entitled *Il Consolato del Mare* (first appearing probably in the eleventh century) recognizes a contract in which all losses should be borne proportionally by the owners of the ship and of the goods according to their respective interests. (Alauzet—*Trait. Gen. des Assur.*, tome 1.) That is, the losses should be distributed as general average. Community of hazard dispenses with the external underwriter until the question arises as to mean and maximum of safety.

The ages had so been growing up to the specific premium, or rate, as compensatory for peril of value; and out of the obscurities of the twelfth century such provision for fortuitous occurrence dimly emerged. Giovanni Vallani, the Florentine historian, who died at an advanced age in 1348, in searching for the origin of the insurance which existed in Italy in and before his time—rate and agreement—fixed upon Jews as the introducers. A body of this people expelled from France by Philip Augustus in 1182 so protected themselves from individual loss on merchandise and other effects, in passing from the country in which they were proscribed to their refuge in Italy. That the Hebrews, schooled in peril and adversity, should have been among the earliest to adopt a general average contribution *in advance of loss*, is not improbable.

There was capricious practice before established usage. A valuable contribution (fore-cited) to the history of this epoch of insurance has been made by Sig. Enrico Bensa, through his researches among the archives of Italian cities; the documentary discoveries which resulted appearing in his work.\* Not extending his views beyond the range of his discoveries, Bensa concluded that "insurance began to be practiced by Italian merchants about the first part of the fourteenth century," but this statement is immediately qualified by the succeeding words, "and in 1319 we see that their use had become common."

Of the insurances which were common in 1319, it is said:—

From briefs of Porto Cagliaritano, and from the indications of documents produced by us, it is established that insurances were contracted by means of brokers, and it is probable that they drew up otherwise the insurance writings (contracts) than those mentioned in the documents cited. However, in 1329, contracts of insurance were already stipulated by bill of the notary, as shows clearly the receipt above mentioned. Nevertheless it has not happened to us to find any examples and forms of this contract older than 1347. (IV, 58.)

Further, at the first,—

Insurers of merchandise were themselves the owners of the vessels; the insurance and the freight, or transportation, being covenanted in same instrument [*i. e.* unlimited responsibility of the carrier]. But, becoming a matter of special contract, and relieved from the bonds which held it connected to freight, insurance furnished, of itself, a subject of mercantile speculation, and from that time—which must have been about 1340—commenced to enter a period of rapid development. In daily commercial practice insurances were contracted by simple policy of the broker, or also verbally; but the better to fix obligations of parties and guarantee execution, the use became customary to stipulate for insurance likewise in public documents; . . . . . the public documents, probably to avoid exceptions taken to usury, were at first drawn in the mutual form, afterwards that of sale, (*vendite*), in which the insurer bought the articles under the express condition of their safe arrival. (IX, 134.)

How long before or after the year 1300 the Lombards introduced insurance into London is without record, but we repeat from Bensa (p. 210) an Italian writing of assurance of the date of 1385,† as suggestive of the possibilities of the text of the now unknown but "most Surest Policy or Writing of Assurance which hath bene ever herctofore used to be made in Lumbard Street" in the vague "heretofore" before 1550.

\* *Il Contratto di Assicurazione nel Medio Evo; Studi e ricerche di Enrico Bensa. Genova, 1884.*

† The thing precedes the word. We give it as our conclusion that neither the term *polizza*, *poliza*, or *policy*, nor the term *praemium*, *premio*, *primo*, or *premium*, in a specific insurance sense, was in the world at or before the date of this instrument.

*Francesco di Marco da Prato e compagni si fanno assicurare in Pisa da diversi assicuratori per fiorini 400 sopra ogni roba, mercanzia ed arnesi carichi sopra una nave provenzale, da Arli a Porto Pisano.*

1385, 11 Luglio.

Al nome di Dio Amen. A XI luglio 1385 al corso di Pisa.

Michele del Voglia e comp.—per fiorini centocinquanta f. C. L.

Bartolomeo e Piero del Voglia—per fiorini centocinquanta f. C. L.

Michele di Carlo degli Strozzi—per fiorini cento f. C.

I detti assicuratori nominati e scritti qui disopra, di detto e anno, feciono sicurtà e assicurarono da Arli fino in Porto Pisano iscarica e porta la roba in terra a Francesco di Marco de Prato e compagni, sopra ogni roba e mercanzia o arnesi di qualunque condizione si fosse, che i commissari o fattori o lor compagni caricassono o avessono caricato o caricassono ad Arli in sullo navilio di Giorgetto Costanzo Berga di Provenza, e cominciano gli assicuratori a correre ogni rischio, incontanente come il detto navilio arà fatto vela, o facesse, o avesse fatto ad Arli, infino a tanto che la detta roba che detti commissari o fattori o procuratori di detti Francesco e compagnia mandassono e caricassono, in qualunque nome e segno, e la detta roba venisse in Porto Pisano scarica in terra, si corrono ogni rischio gli assicuratori. E sono contenti, e fu di patto il detto Francesco di Marco e compagni con detti assicuratori, che in caso che il detto navilio di Giorgetto non venisse in Porto Pisano e non recasse niuna roba di detti mercatanti che detti assicuratori che hanno, come nello scritto disotto si contiene, assicurato, i detti assicuratori sono tenuti e debbono e promissono rendere i detti fiorini cinque d'oro per C a detto Francesco da Prato e compagni (i quali fiorini v. hanno avuti).

E se il detto navilio di sopra iscritto venisse al Porto Pisano o a Livorno e niente recasse della detta compagnia, si promissono i detti Francesco da Prato e compagnia, della somma di fiorini 5 che hanno avuto rendere addietro fiorini  $4\frac{1}{2}$  per C, e fiorini 1 abbino guadagnato i detti assicuratori per lor fatica; si veramente che Francesco da Prato e compagni debbino far chiari per lettera, o per libro di scrivano del detto navilio, che niente vi sia suso caricato della roba di detto Francesco e compagni; ma se la roba il detto navilio recasse s'intenda che gli assicuratori abbino guadagnato la sicurtà. Estimaron Francesco e compagni la roba che i detti lor compagni o fattori o commissari debbono mandare in detto navilio fiorini —.

Corrono i detti assicuratori ogni rischio dal detto luogo al detto luogo, e sopra le dette robe e in detto nome e segno che fossono caricate o mandate, e per le stime iscritte disotto, e in detto navilio corrono ogni rischio di Dio e di mare e di gente ed ogni caso e pericolo e fortuna e disastro o caso sinistro che per niuno modo potesse intervenire, e fosse fatto il caso, o il pericolo, o la fortuna, o il disastro come si volesse, o di che condizione, trutti gli corrono e portano gli assicuratori sopra di loro, in fino a tanto che le dette robe non sieno poste o scariche in terra a Livorno, o in Porto Pisano come è detto, e per lo rischio debbono avere ed ebbono gli assicuratori fiorini cinque d'oro per C, co' patti e modo iscritti disotto in questo foglio.

E se niuno disastro intervenisse delle dette robe, che Dio le guardi, i detti assicuratori si promissono ed obbligaronsi di dare e pagare con effetto e senza niuna eccezione opporre o far opporre, a detti Francesco di Marco e compagni, ovvero a lor fattori o loro procuratori, e dal dì che sia notificato il disastro a detti assicuratori a mesi due prossimi che seguir-

*Francesco di Marco da Prato and Company cause themselves to be assured in Pisa by sundry assurers for 400 florins upon all goods, merchandise and baggage loaded upon a Provençal vessel, from Arli to Porto Pisano.*

1385, 11 July.

To the Name of God, Amen. July XI, 1385, at the Corso of Pisa.

Michele del Voglia e comp.—for one hundred and fifty florins f. C. L.

Bartolomeo e Piero del Voglia—for one hundred and fifty florins f. C. L.

Michele di Carlo degli Strozzi—for one hundred florins f. C.

The said assurers named and here above written, day and year stated, make assurance and do assure from Arli unto Porto Pisano goods to be unloaded, and then delivered to Francesco di Marco de Prato and Company, being such goods and merchandise or baggage, of whatsoever kind, as the commissaries or brokers or their associates loaded or have laden at Arli upon the ship of Giorgetto Costanzo Berga of Provence; and the assurers commence to run every risk immediately, whether such ship has sailed, is sailing, or shall make sail, from Arli, until the said goods of whatsoever name or mark, which the said commissaries or brokers or attorneys of the said Francesco and Company have loaded and sent, shall come into Porto Pisano and be discharged upon land; to which extent truly the assurers run every risk. And they are content; and it is agreed between the said Francesco di Marco and the said assurers, that in case the said ship of Giorgetto shall not proceed to Porto Pisano, nor bring any of the goods of said merchants which the said assurers have, as described in the writing below, assured, the said assurers are held and bound and promise to return the said five florins of gold per centum to the said Francesco da Prato and Company; (which five florins they have received).

And if the said ship, as above written arrive at Porto Pisano or Leghorn and bring nothing of the said company, the said Francesco da Prato and Company truly promise to return  $4\frac{1}{2}$  per C. of the sum of 5 florins which they have received, and 1 florin the said assurers have gained for their trouble. Truly Francesco da Prato and Company must make clear by letter, or by the ship's book, that nothing has been thereon loaded of the goods of the said Francesco and Company; and if the said ship bring the goods it is understood that the assurers have earned the assurance [premium]. Francesco and Company value the goods which their said associates or brokers or commissaries should send in the said ship at — florins.

The said assurers run every risk from one place to the other place, and upon the said goods, of the name and mark as loaded or sent, and at the price below written; and in the said ship they run every risk of God and of the sea and of people and every accident and peril and chance and disaster or misadventure that by any means may intervne; and if there should happen accident or peril or chance or disaster of any description or kind, all these the assurers bear and take upon themselves until the said goods be landed and discharged at Leghorn, or Porto Pisano as stated, and for the risk the assurers must and should have five florins of gold per centum in the manner and by the covenants as below written in this sheet.

And if any disaster should occur to the said goods, which God forbid, the said assurers truly promise and obligate themselves to give and pay, without opposing, or causing to be opposed, any exception, to the said Francesco di Marco and Company, or to their brokers or their attorneys, within two months next following the day whereupon notification is given



anno ognuno degli assicuratori queste quantità di denari di che assicurano, in Pisa, in Firenze, in Genova, in Napoli e in ogni altra terra o parte o luogo ove i detti Francesco di Marco e compagni o altri per loro gli volessero lor domandare, salvo che Francesco, o altro per loro, non possano domandare niuno vantaggio di cambio di moneta, se altrove che in Pisa s'avesse a fare pagamento. E se addivenisse, che gli assicuratori, per disastro che a loro addivenisse, avessero a ricomperare o riscattare le dette robe, le possano rendere e restituire sane e salve in terra a Porto Pisano o a Livorno a detti Francesco e compagni o ad altri per loro, dal dì sia intervenuto il disastro a mesi tre prossimi che seguiranno.

E per più chiarezza delle dette cose i detti assicuratori, ognuno di sua propria mano, si sottoscrisse in questa scritta alle dette cose essere tenuti o obbligati a dare e pagare se niuno disastro intervenisse a detti Francesco di Marco e compagni o a lor fattori o procuratori com'è detto a ognuno quella quantità dei . . . . . che assicurano per lo modo e forma iscritto in questa iscritta per mano di me Boninsegna di Messer Rinuccio sensale e mezzano delle dette cose. Nostro Signore Iddio conduca la roba e il navillo a salvamento; e se il detto debito non fosse addomandato agli assicuratori, da oggi di detto a mesi otto, s'intenda il debito esser cassa e vano e di niun valore.

Archivio Datini di Prato, N. 1108 K. IV, 2.

At or about the closing year of the fourteenth century, narrates Giovanni di Antonio da Uzzano (writing some years later), in the importation of wool from London the rate of maritime assurance from London to Pisa was "from 12 to 15 per cent. on the value; sometimes more, according to the dangers apprehended either from pirates or other sources." Maritime assurance rate from Bruges to Pisa 12 to 15 florins per cent. according to the season; terrestrial insurance 6 to 8 florins per cent.

Pegolotti, whose treatise, *La Pratica della Mercatura*, was written before 1350, refers to the insurance contract as a "*rischio de mare e di genti*." It was quite otherwise than a risk of the sea and of nations in a Latin contract reproduced by Bensa (p. 228), wherein one Luca Gentile bargains for the contingency of 600 florins conditioned upon the result of the parturition succeeding the eighth month of his wife's pregnancy, viz.:—

Luca Gentile si fa assicurare per seicento fiorini sulla vita di Franenga Spinola sua moglie gravida di otto mesi.—*Bensa*.

1427, 10 Aprile.

Nomine Luce Gentilis.

In nomine Domini. Amen.

Infrascripti inferius nominati confessi fuerunt et in veritate publice recognoverunt mihi notario infrascripto, tamquam publice persone, officio publico stipulanti et recipienti nomine et vice Luce Gentilis . . . . . et per me jamdictum notarium infrascriptum ipsi Luce, licet absenti, se ab ipso Lucha emisse, habuisse et recepisce tantam quantitatem suarum rerum et mercium bonarum et mercantilium causa infrascripta.

Renunciantes etc.

Unde et pro quibus et seu pretio et valore quarum, dicti infrascripti, sine aliqua exceptione seu conditione solemniter se obligando promiserunt, et solemniter convenerunt mihi jamdicto notario infrascripto, presenti et stipulanti ut s., eidem Luce et sive cuicumque persone legiptime pro eo, dare et solvere, et seu dari et solvi facere realiter et cum effecto infra menses tres prox. vent. quantitates pecuniarum infrascriptas videlicet:

Petrus de Mari—floreos ducentum Jan.

Aymonus de Grimaldis—floreos ducentum Jan.

Stefanus Lomelinus—floreos centum Jan.

Johannes de Grimaldis q. Odoardi—floreos centum Jan.

of the disaster, to the said assurers, those sums of money hereby assured, either in Pisa, Florence, Genoa, Naples, or in any other land, part or place where the said Francesco di Marco and Company, or others for them, may demand the same, except that Francesco, or others for them, shall not demand any advantage of exchange of money, if payment must be made elsewhere than at Pisa. And if it chance that the assurers, through disaster which may happen to them, shall have to repurchase or redeem the said goods, they may restore and return the same safe and sound on land at Porto Pisano, or at Leghorn, to the said Francesco and Company or to others for them, within three months next following the day on which the disaster occurred.

And in order to make clear and sure the things forementioned, the said assurers have each subscribed with his own hand in this writing, holding himself bound and obligated thereby to give and pay if any disaster happen to said Francesco di Marco and Company or to their brokers or attorneys, that amount of . . . which they insure by the mode and form written in this writing by the hand of me Boninsegna of Master Rinuccio, broker and intermediate of the said things. May our Lord God conduct the goods and the vessel in safety; and if such debt be not demanded of the assurers from this date until eight months hence, it is understood that this contract be cancelled, void and of no value.

April 10, 1427.

In name of Luca Gentile.

In the name of our Lord, Amen.

The undersigned, further below named, confessed and in truth publically acknowledged to me, the notary undersigned, as a public person, officially and publically stipulating and receiving in name and place of Luca Gentile . . . . . that through me the aforesaid subscribing notary for the same Luca, although absent, they had bought from the said Luca, had and received such quantity of his things, goods and mercantile wares for the purpose underwritten.

Renouncing &c.

Wherefore and for which, or their price and value, the said undersigned without any exception or condition, solemnly themselves obligating, promised and solemnly agreed, with me the aforesaid notary, present and promising as above, to give and pay, or to cause to be given and paid, really and effectually, within the three ensuing months to the same Luca, or to any person lawfully representing him, the sums of money written below, viz.:—

Petrus de Mari—Two hundred Genoese florins.

Aymonus de Grimaldis—Two hundred Genoese florins.

Stefanus Lomelinus—One hundred Genoese florins.

Johannes de Grimaldis q. Odoardi—One hundred Genoese florins.

Sub pena dupli.

Et sub hypotheca.

Salvo et specialiter reservato, si Franenga filia q. Melchionis Spinule et uxor ipsius Luce, etatis annorum triginta duorum vel circa, nunc pregnans mensium octo vel circa, de partu suo et pregnatione, et occasione ipsius partus et pregnationis, salva et viva evaserit, tunc et co casu presens instrumentum sit cassum, irritum et nullius valoris. Sit etiam cassum etc.

Actum Janue in Banchis ad bancum mei notarii infrascripti, Anno domine nativitatis MCCCCXXVII, indit. IV secundum cursum Janue, die ut s. in tertiis presentibus testibus suprascriptis civibus Janue ad hec vocatis et rogatis. Arch. not. di Genova. ACT. BRANCH. de BAGNARIA. f. 1, n. 169.

Under double penalty

And under pledge.

It being provided and specially reserved, that if Franenga, daughter of a certain Melchior Spinule and wife of the same Luca, thirty-two years of age or thereabouts, now pregnant for eight months or thereabouts, shall come out of her childbirth and pregnancy, and the occasion of such childbirth and pregnancy, safe and alive, then and in that case the present instrument be broken, void and of no value.

Done at Genoa &c.

Life insurance, *i. e.*, contract upon the contingency of personal death, was made of special prohibition in some nations of Continental Europe in the sixteenth century. The English adopted the Italian\* views of the subject. Cornelius Walford, in *The History of Life Insurance in Great Britain*, gave the following contract of date of June 18, 1583; text preserved by having been a subject in litigation "and the first recorded life insurance case before the English courts." The rate of premium was "viii upon the hundred."

In the name of God, amen.

Be it knowne unto all men by theise presentes that Richard Martin, citizen and Alderman of London, doth make assurance† and causeth himself to be assured upon the naturall life of William Gybbons, citizen and salter of London, for and during the space of xij monethes next ensuinge after the underwriting hearof by the assurers heereafter subscribed, public, to be complete and ended. The which assurance wee, the persons heereafter named, merchantes of this cite of London, for and in consideration of certaine currant money of England by us received at the subscribing hereof, of the said Richard Martin, after the rate of viij li sterling per cent. (whereof we acknowledg ourselves and everie of us by thiese presentes trulie satisfied and paid), do take upon us to beare. And we do assure by theise presentes, that the said William Gybbons (by what addition soever he is or shalbe named or called) shall, by God's grace, contynue in this his naturall lief for and during the space of xij monethes next ensuinge after the underwriting heereof by everie of us, the assurers, or in default thereof, everie of us to satisfie, content and paie, or cause to be satisfied, contented and payd, unto the said Richard Martin, his executors, administrators or assignes, all such severall summes of money as we, the assurers, shall hereafter severally subscribe, promising and binding us, eche one for his owne part, our heiers, executors and administrators by these presentes, that if it hapen (as God defend) the said William Gibbons to dye or decease out of this present world by any wayes or meanes whatsoever before the full end of the said xij monethes be expired, that then we, our heires, executors or assignes, within two monethes next, after true intimacion thereof be to us, our heires, executors or administrators, lawfullye given, shall well and truly content and pay, or cause to be contented and paid, unto the said Richard Martin, his executors, administrators or assigns, all such summe and summes of money as by us, th' assurers, shalbe heereafter severally subscribed, without any further delaye. It is to be understood that this present writing is and shall bee of asmuch force, strength and effect as the best and most surrest pollicy or writing of assurance which hath bene ever heretofore used to be made upon the life of any person in Lumbard street, or nowe within the Roiall Exchange in London. And as the assurers be contented and doe promise and binde themselves and everie of them, theire heiers, executors and administrators, by these presents, to th' assured, his executors, administrators and assigns, for the true performance of the promises, according to the use and custome of the said street or Royall Exchange. And in testimony of the truth, the assurers have hereunto severally subscribed theire names and summes of money assured. God send the said William Gibbons helth and long lief. Given in the office of assurance within the Royall Exchange aforesaid the xvijth day of June,‡ 1583.

*John Barker, 50 li.*

*Leonard Holydaye, 25 li.*

*William Browne, 25 li.*

*John Castelin and Anthony Marlbor, 25 li.*

*Henry Clitherowe, 25 li.*

*Edmund Hogan, 33li. 6s. 8d.*

*John Stokes, 33li. 6s. 8d.*

*Henry Colthirst and Nicholas Stile, 25 li.*

*John Newman, 25 li.*

*Symon Lawrence and Oliver Stile, 25 li.*

*Executrix of William Towerson, dec'd, 33li. 6s. 8d.*

*William Buher, 25 li.*

*Robert Brooke, 33li. 6. 8d.*

\* The civil statutes of Genoa (1588) prescribed, however, penalties for securities, bonds or wagers made upon the life of the pope, or upon the life of the emperor, or any constituted dignitary, ecclesiastical or secular, without license of the Senate.

† The word Insurance was not yet in the English language.

‡ The insured came to his death May 29. The underwriters refused to pay on the plea that the insured had lived twelve full months, accounting after the rate of twenty-eight days to every month. The commissioners appointed in the city of London to determine such causes, and also Richard Candeler, the clerk of Office of Assurance, by whom the contract was drawn, determined that the contract was intended to continue in force for a whole year; and it was in 1587 so determined by two judges of the Court of Admiralty, to whom the question had been judicially referred. (Jour. of Inst. of Act., XVI, 423.)



The twenty-fourth article of the ordinance of Amsterdam of 1598 expressly prohibited insurance of the life of any person. Earlier than this prohibition a French maritime treatise entitled *Le Guidon* had this section in its insurance chapter:—

5. Another kind of insurance is made in other nations, it is upon the lives of men; by which in case of their dying during a voyage certain sums are to be paid to their heirs or creditors. Creditors may even insure their debts if their debtors remove from one country to another;—the same can be done by those having rents or pensions, so that in case of their decease there will be continued to their heirs such pension or rent. These are all forbidden as against good morals, being customs from which endless abuses and deceptions arose.

Legal regulations as following, and developed by, the insurance practices had shown themselves in a decree in 1369 of the Duke of Genoa, Gabriele Adorno, in an ordinance promulgated by the magistrates of Barcelona in 1435, and in a law of Flanders of 1537. Regulations of the insurance of Antwerp and Amsterdam followed later in the sixteenth century; in 1599 Pedro Santerna, a Portuguese writer, published in Cologne his *Tractatus de Assecurationibus et Sponsionibus Mercatorum*, and in 1601, the English statute "Concerninge matters of Assurances amongste Merchantes" was passed for the establishment of special commissioners to meet weekly "in the office of the Assurances." The preamble to this Act embodies the insurance concept of the time in England.

Whereas it ever hathe bene the policie of this realme by all good meanes to comforte and encourage the merchante, therbie to advance and increase the generall wealth of the realme, her Majesties customes, and the strength of shippinge, which consideracion is nowe the more requisite, because trade and traffique is not at this presente soe open as at other tymes it hathe bene. And whereas it hathe bene tyme out of mynde an usage amongste merchantes, both of this realme and of forraigne nacyons, when they make any greate adventure (speciallie into remote partes), to give some consideracion of money to other persons (which commonlie are in no small number), to have from them assurance made of their goodes, merchandizes, ships, and things adventured, or some parts thereof, at such rates, and in such sorte, as the parties, assurers and the parties assured can agree, whiche course of dealinge is commonlie termed a policie of assurance; by means of which policies of assurance it cometh to passe upon the losse or perishinge of any shippe there followethe not the undoinge of any man, but the losse lightethe rather easilie upon many, than heavilie upon fewe, and rather upon them that adventure not, than those that doe adventure; whereby all merchantes, speciallie the younger sorte, are allured, to venture more willinglie and more freelie. (43 Eliz. C. 12.)

In 1629 a general chamber or company for the insurance of marine risks was proposed in the United Provinces, or Republic of Holland, with insurance compulsory; the merchants of the maritime towns objecting to this feature, the project was abandoned. In the plan were the following as part of rate list for outward bound vessels:—

For the Sound and Norway, summer, . . . . .	2½	winter, . . . . .	3½ per cent.
For Bergen in Norway, Drontheim and Stavanger, summer, . . . . .	3	winter, . . . . .	3½ "
For Muscovy, . . . . .	3½	homeward, . . . . .	4 "
For Greenland and Spitzbergen, . . . . .	3		"
For Hamburg, . . . . .	2	For Emden and Bremen, . . . . .	1½ "
For Scotland, New Castle, Hull and neighborhoods, . . . . .	2½		"
For the Thames, . . . . .	2½		"
For Plymouth to La Pointe de L'Angleterre, . . . . .	3		"
For Ireland and neighborhood, . . . . .	5		"
For Nantes, La Rochelle and neighborhood, . . . . .	4½		"
For Bordeaux, . . . . .	5		"

In 1642 J. A. Schraga published, at Strasbourg, *De Assecurationis Contractu*.

The risks remained chiefly of property or person in course of voyage, transmission or travel. Roccus, 1655, said the person of A may be insured *safe and free from harm* when about to pass through places where there are infidels, Turks, enemies or robbers; a life or survivorship may also be insured for *a particular time*. Insurance may also be effected on money conveyed through dangerous places infested with enemies or robbers. [Notes lxxiv, lxxv.]

Propositions for the insurance of "estates combustible" began in England about 1635. A writer of a pamphlet, London, 1662, entitled a *Treatise of Taxes and Contributions*, makes a certain comparison in these terms: "Like the ensurance in some Countreys of Houses from Fires for a small part of their yearly Rent."\* Both the places and the

\* Insurance Cyclopædia, III, 441.

character of such insurance were alike indefinite. Various fire insurance schemes succeeded the great fire in London (1666), and when William Penn landed on the west bank of the Delaware the insuring of houses, whether brick or timber, against loss by fire was in practice; and the insurance of goods in houses or buildings against fire not thought of.

Apart from this tenor in the development of underwriting, there were instances of independent movements in the way of protection and remuneration, as in the case of the Anglo-Saxon guild in London, in the period 827-1013, for the recovery of or compensation for stolen live stock and slaves—the slave to be paid for at the maximum rate of half a pound, the money to be raised by a call. "Every brother who has a slave [stoned for running away] shall contribute either 1*d.* or half a penny according to the number of the brotherhood." (Walford's Gilds, 24-25.)

A payment of money contingent upon the life of a person in a given term of time was as the wrecking of a vessel, or any other accident, and had so been among precautionary provisions. Life annuities or annual payments to be paid during life were old in the world at the time of the founding of Philadelphia, but there was no methodical calculation discriminating them from the annuity for a fixed term of years. To use the words of De Moivre, "the method of calculating the values of annuities upon lives seems never to have been perfectly understood till Dr. Halley first published the rules of it" (1693). It can be said that a value receivable upon a death yet to occur was less understood, still Dr. Thomas Wilson, in his Discourse upon Usurie, published 1584, written about 1569, gave the following among his exemplifications:—

A merchant lendeth to a corporation, or companie an hundred pound, which corporation hath by statute a grant, that, whosoever lendeth such a summe of money and hath a Childe of one yeere, shall have for his Childe, if the same Childe doo live till he be full fiftene yeeres of age 500 *li* of money, but if the childe die before that time, the father to loose his principall for ever.

Here there was first, in some form, the consideration of the present value of £500 receivable in fourteen years, and the diminution of such present value by the chance of not receiving the sum in reversion.

Discount and compound interest were both understood and practiced in Wilson's time. In the absence of decreed formulæ, men's intuitive perceptions are sharpened—perhaps it should be said have free play. There was sufficient knowledge in England at the time to compute £500 due absolutely in fourteen years as worth £221 at 6 per cent. interest, and knowledge sufficient to estimate that about three-fourths of the children reaching age 1 would survive to age 15, and hence £100 would be received for the value of \$166, "or thereabouts"; but the ruling rate of interest was much higher than 6 per cent., and speculation does not give much heed to rules. Thomas Wilson, "doctor of the Civil lawes," as an opponent of all interest, answered the question, "Whether is this merchant an usurer or no," thus: "The lawe saith, if I lend purposely for gaine, notwithstanding the perill or hazard, I am an usurer."\* Dr. Wilson, however, got around all right, through the logic of circumstances, in this proposition:—

A corporation taketh a 100 *li* of a man giving him 8 in the 100 *li* during his life without restitution of principall. It is no usurie, for that here is no lending, but a sale for ever [*in toto*] of so much rent for so much monie.

\* A text, however, is to be interpreted according to the time in which it was written, and the writer, Wilson, wrote when not only "usury" but "interest" was under ban. In 1545 (37 Henry VIII, C. 9) loans at 10 per cent. per annum were legalized. Interest was prohibited in England in 1552, "as a vice most odious and detestable and contrary to the word of God" (This left all monetary transactions involving the question of interest dependent upon the evasion or enforcement of judicial interpretation.) In 1571, the Act of 13 Eliz., C. 8, restored 10 per cent. interest. In opposition to the passage of this Act, Wilson declared: "It is not the amount of interest taken that constitutes the crime, but all lending for any gain, be it ever so little, is wickedness before God and man and a damnable deed in itself, and there is no mean in this vice any more than in murder or theft." While legal prohibition of interest continued, the dealings therein rose to 14 per cent. Whether the endowment named was a fact or merely a supposition for illustration, the "corporation or companie" would be about "whole" at 10 per cent. The obtainer of an endowment as a "lender," and the obtainer of a life annuity as a purchaser, evince the status which the life annuity had attained.



Whether such twelve and a half "years' purchase" was compatible with the conditions involved, waited upon the computations of Halley and De Moivre,\* as according to the age of the purchaser. The life annuity was in confusion, the life annuity as premium unknown. Before Halley's table, Lorenzo Tonti's survivorship annuities had started the thought of a method with survivorship as the foundation and death as an incidence, with death as gain for account of decedent, not loss; but death as occasion for payment was continuing to be of the character of the maritime hazard, and so late as 1681, Article 10 of *Ordonnance de la Marine* declared that: "We forbid the making of any insurance upon the life of men." In the case of insurance which provided for the redemption of persons held in captivity, it was, by Article 11 of the *Ordonnance*, legally payable, if the redeemed, on his way back, were retaken, killed or drowned, or perished by any other means than natural death.

\* Before these teachers were Domitius Ulpianus, a Roman jurist and prætorian prefect, assassinated by Roman soldiers A.D. 228, and Jan De Wit, grand pensionary of Holland and West Friesland, assassinated at the Hague A.D. 1762. Both made their formulæ without any effect upon the development of monetary values dependent upon the duration of life. The Justinian Pandects (*lib. 35, tit. 2, ad Legem Falcidiam*.) have preserved what Ulpian computed and wrote. It had been a custom of Roman testators to bequeath to legatees provision for life. By the Falcidian law, passed under Augustus, such legacies were prohibited from encroaching upon the one-fourth of the estate resulting to the heir at law. To carry out this law, some estimate of life duration of the legatees, one with another, from a given age had to be formed. The Roman census enumerated ages of population, and Rome had bills of mortality. Further than this, it was understood that the young *may* die and the old *must*, and there was death at all ages. Ulpian computed mean after-life from birth to twenty years of age at thirty years, and this was to say that there was no loss in vitality with each succeeding year lived from birth to 20. Then followed:—

	Mean after-life.
Ages 20 to 25, . . . . .	28 years.
25 to 30, . . . . .	25 "
30 to 35, . . . . .	22 "
35 to 40, . . . . .	20 "

So from 20 to 35 each succeeding five years lived decreased the mean after-life three years, and, strange to say, the next succeeding five years lived decreased the mean after life but two years; for, "*ab annis trigintaquinque, usque ad annos quadraginta annorum viginti*" was the period.

Then began the decline of the average life one year with each succeeding year lived by the individual life, viz.:—

	Mean after-life.
Ages 40 to 41, . . . . .	19 years.
41 to 42, . . . . .	18 "
42 to 43, . . . . .	17 "
43 to 44, . . . . .	16 "
44 to 45, . . . . .	15 "
45 to 46, . . . . .	14 "
46 to 47, . . . . .	13 "
47 to 48, . . . . .	12 "
48 to 49, . . . . .	11 "
49 to 50, . . . . .	10 years.

This being followed with reaction in the vital force, the decreasing mean after-life was as follows:—

Ages 50 to 55, . . . . .	9 years.
55 to 60, . . . . .	7 "
60 and upwards, . . . . .	5 "

Whether the oldest ages were as uncertain data in ancient Rome as in modern times we cannot say, but Ulpian cut the problem short, and with keen sagacity left the field open for the imaginary centenarian. Whether the legatee was sixty-five or ninety-five years of age, he was valued at the average five-year after life.

So from the cradle to the grave, aggregations of lives would live, according to age attained, from five to thirty years, while the individual life might compass any of the years of a century. A Roman lawyer adjusted particular interests to the general condition, and by resolving the particular into the universal, put a measure upon contingency. In this there were outgleams of hazard as a specific limitation rather than an impenetrable indefiniteness. Mediæval darkness followed this illumination.

Blaise Pascal had, about 1654, completed his Arithmetical Triangle, in which he aimed at the measurement of the happening and the non-happening in chance—it was an approach toward the binomial theorem of Newton.

The Chevalier de Méré propounded these problems to Pascal:—

1. In how *many* trials is it an *even* wager to throw sixes upon two dice?
2. Two players want each a given number of points towards winning. If they separate without playing out the game, how should the stakes be divided between them?

Then Peter de Fermat generalized the computations of Pascal into something of a formulation of mathematical probability, and at the same time Peter Huyghens, the Dutch astronomer, published his doctrine of chances as a calculus of probability.

What John De Wit did in his report upon the resolution of the States of Holland and West Friesland in 1671 to negotiate funds by life annuities, was forgotten when Penn was in Pennsylvania, and was "as good as lost for 180 years," to use the words of its restorer to public recognition, Frederick Hendricks (*The Assurance Magazine* III, 6, 7, London, 1852). Laying down three "presuppositions," De Wit proceeded to express the value of a life annuity at 4 per cent. compared with redeemable annuity at 4 per cent., or twenty-five years' purchase.

The latter part of the Third Presupposition was as follows: [Hendricks's version]:—

With the opening of the eighteenth century the Amicable Society for a Perpetual Assurance Office, began in London (1706) without a mortality table, and especially avoiding the *pretium* of the *periculum* rejected all risk, paying the "wives, children and other relatives" of deceased members by divisions of contributions received. The life premium as an annuity purchased by the life insurance office and payable by reversionary value was yet in the distance.

So, in answer to the question with which this Introduction begins, it can be said that the ancients were learning insurance, the moderns are learning still. How much or how little had been learned up to the time of the founding of the city of Philadelphia has been shown.

"I then presuppose that the greatest likelihood of dying in a given year or half year of the second series of the ten following years (that is from sixty-three years to seventy-three, taken one with the other, rather than in a given year or half year of the period of the vigor of life) cannot be estimated at more than double, or as two is to one, and as the triple, or as three is to one during the seven following years, that is from seventy-three years to eighty.

"Finally, in supposing that life necessarily ends at the twenty-seventh year after the expiration of fifty years of age, above presupposed, this time is neither assumed at too high nor too low a standard, as experience manifestly teaches us that the life of some men exceeds by a considerable period the age of eighty years, the age of eighty-one years, and even more.

"These three articles being presupposed, we have by a demonstrative calculation, mathematically discovered and proved, that the redeemable annuity being fixed at twenty-five years' purchase as above, the life annuity should be sold at sixteen years' purchase, and even higher, to be in equality one with the other; so that in the purchase of one florin of life annuity on a young and vigorous nominee, more than sixteen florins should be paid, as is proved by the following demonstration:—

"First Proposition [of Demonstration]—The value of several equal expectations or chances, a certain sum of money or other objects of value pertaining to each chance, is found to be exactly determinable by adding the money or other objects of value represented by the chances, and by then dividing the sum of this addition by the number of chances; the quotient or result indicates with precision the value of all these chances," etc.

Starting upon the elementary principle of the doctrine of chances that two equal expectations, one resulting in nothing, the other in twenty stuyvers, are worth ten stuyvers, De Wit planned a scheme of value of money receivable under the life chance. Life annuities were paid in all the offices of Holland and West Friesland by half-yearly instalments at the expiration of the half year. Life was divided into four periods. Each successive half year from three or four years up to fifty or fifty-four was made one chance; each half year of the next ten years, two-thirds of a chance; each half of the subsequent ten years, one-half of a chance; each half of the subsequent seven years, one-third of a chance, life taken as ending "at the twenty-seventh year after the expiration of the fifty years of age above presupposed." Then, for illustration:—

Chances—1	of	0	=	0
1	of	1200	=	1200
$\frac{2}{3}$	of	2100	=	1400
$\frac{1}{2}$	of	3600	=	1800
$\frac{1}{3}$	of	4200	=	1400
				5800

and

$$5800 \div 3\frac{1}{2} = 1657 \text{ 1-7.}$$

The sum of 10,000,000 stuyvers receivable semi-annually was discounted at the rate of 4 per cent. per annum for each successive half year up to the 154th, *i. e.*, 10,000,000 stuyvers at the rate of 1.0198039 =  $\sqrt[1]{1.04}$ , and the progressive summations given as follows:—

Half years.	Stuyvers.		
0, . . . . .	0		
1, . . . . .	9,805,807		
2, . . . . .	19,421,192		
3, . . . . .	28,849,853		
. . . . .	. . . . .		
99, . . . . .	432,490,825		
. . . . .	. . . . .		
119, . . . . .	455,999,472		
. . . . .	. . . . .		
139, . . . . .	471,881,080		
. . . . .	. . . . .		
153, . . . . .	479,820,563		
Proportions of chance.	No. of whole chances.	Summation of stuyvers. (Total for periods.)	Proportion of stuyvers.
100	1	100	28,051,475,578
20	$\frac{2}{3}$	13 $\frac{1}{3}$	8,911,946,713
20	$\frac{1}{2}$	10	9,297,075,282
14	$\frac{1}{3}$	4 $\frac{2}{3}$	6,668,408,125
			<hr/>
		128	40,864,113,736

There being 128 chances in all:  $40,864,113,736 \div 128 = 320,032,131$  stuyvers, or 16,001,607 florins, "the real and exact value of all the collective chances" in 20,000,000 stuyvers, or about 1,000,000 florins, per annum; so that a "person who for 16 florins has purchased one florin per annum on a young and vigorous life has made a remarkably advantageous contract, *i. e.*, in comparison with a redeemable annuity at 4 per cent.



# PART I.

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MARINE INSURANCE, MARINE-FIRE INSUR-  
ANCE, FIRE-MARINE INSURANCE, AND  
INSURANCE IN GENERAL.



# MARINE INSURANCE.

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## CHAPTER I.

*The Departed London Lombard—Sailing of William Penn for the Delaware—The Marine Policy in 1682—Ordonnance de la Marine—The Court of Policies of Assurance of London—Arrival of the Welcome at Newcastle—Beginning of the Port of Philadelphia—Arrivals—Imports and Exports—Customs—A Condemnation by the Provincial Council sitting as a Court of Admiralty—The Common Law and the Law Marine—Position of Freight Insurance—Policy on Merchandise from Philadelphia to London—Hazards of War, Privateers and Pirates—Insurance Scruples of William Penn and Insurance Faith of James Logan—Establishment of the Royal Exchange Assurance Company of London and the London Assurance Company—Drawbacks of London Underwriting and Insurance Deficiencies thereby of Philadelphia Merchants. (1682–1720).*

THE Lombard in London, with his policy or note of assurance, was a dim tradition and a fading memory when, at the close of August, 1682, William Penn embarked at Deal to sail for the Province bounded on the east by the Delaware river, on the continent of North America, of which he by Royal patent was created Lord Proprietary. He sails from the Downs in the Good Ship called the *Welcome*, of the burthen of three hundred Tuns or thereabouts, "whereof is Master, under God, for this present Voyage, Robert Greenway," and "by God's Grace, bound for the town of New Castle, in Delaware."

Molloy was writing in the year of this sailing of the *Welcome*. This author said, respecting the contract of remuneration for loss by perils of the seas, that,

The *Policies* now-a-days are so large that almost all those curious Questions that former Ages, and the Civilians according to the Law Marine, nay and the Common Lawyers too, have controverted are now out of debate; scarce any misfortune that can happen, or provision to be made, but the same is taken care for in the Policies that are now used; for they ensure against Heaven and Earth, stress of Weather, Storms, Enemies, Pirates, Rovers, &c.; or whatsoever detriment shall happen or come to the thing insured &c. is provided for. (*De Jure Maritimo et Navali*, London 4 ed. 1688. B. 2, C. 7, S. 7).\*

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\* By the *Ordonnance de la Marine* (1681) "the policy shall contain the name and the place of residence of the person who has the insurance made: his quality, as proprietor or factor; the effects whereon the insurance shall be made; the name of the vessel and the master; that of the place where the goods have been or shall be laden; the port whence the ship shall depart, or is departed; those where she shall load and unload; and all those where she may touch at; when the risque shall begin; when end; the sum intended to be insured; the premium or cost of the insurance; the submission of the parties to arbitration in case of dispute; and generally all the other conditions which they shall intend to agree upon."

"Remarks: (Weskett 402).<sup>a</sup> All that is expressed in the afore-mentioned article of the French ordinance of 1681, was observed long before that time, and only gives the force of law to ancient usage."

<sup>a</sup> A Complete Digest of the Theory, Laws and Practice of Insurance compiled from the Best Authorities in Different Languages by John Weskett, Merchant, London 1781.

The Court of Policies of Assurance in London, created in 1601 by the statute of 43 Eliz., Cap. 12,\* expedited in proceeding by further statute, though declining, was yet not entirely in disuse for the "hearing and determining of Causes arising and Policies of Assurance entered within the Office of Assurances in London." Persons not so entering policies were also in the business.

October 24, the *Welcome* reached the capes of the Delaware, and on the 27th arrived before New Castle, the Proprietary of Pennsylvania receiving possession of the town October 28, under "two certain deeds of feoffment from the illustrious prince James, Duke of York, Albany,"† etc. Such delivery was accompanied with the typical gift of "Turf and Twig and Water and Soyle of the river Delaware." Penn's cousin, Captain William Markham, appointed deputy governor of the Province, had arrived the previous year to prepare the way for effectually carrying out the proprietor's colonization project. The Proprietary had told Markham that if he preferred the sea to such deputyship, he would procure for him the command of a passenger and trading vessel running between England and the Delaware. Markham sailed in the spring of 1681. The ship *John and Sarah*, from London, reached the river after the arrival of Markham. Another vessel called the *British Factor* brought to in the winter in the vicinity of Upland (Chester), and the river freezing, the passengers went ashore and remained there the rest of the winter.‡ A ship which had been blown off to the West India islands arrived in 1682.

The letters patent signed by King Charles II, gave authority to the Lord Proprietary, by article 12, to create seaports, harbors, etc., in aid of trade and commerce, subject to English customs regulations and restrictions of the navigation acts. William Penn had landed upon the western shore of the Delaware to found a city as the foundation of a State. The site chosen was the peninsula formed by the confluence of the Delaware and Schuylkill rivers, 39° 57' north latitude, and 75° 9' longitude west from Greenwich. It was by Penn's instructions to be "where it is most navigable, high, dry and healthy; that is where most ships may best ride, of deepest draught of water, if possible to load or unload at the bank or key side without boating or lightering of it." Thomas Pfairman, or Fairman, one of the councilmen of Upland (founded in 1643 by the Swede, Jorän Kyn), took the courses and soundings of the Delaware and the Schuylkill for determining the site of the prospective city. "Be sure," wrote the Proprietary to his commissioners, William Crispin, John Bezar and Nathaniel Allen, "to settle the figure of the town so as that the streets hereafter may be uniform down to the water from the country bounds."

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\* It was a commission renewable annually at least, composed of the "Judge of the Admiralty, the Recorder of London, two Doctors of the Civil Law, two Common Lawyers [*i. e.* of the common law] and eight discreet Merchants," any five of whom to have power to hear, examine and decree in a "summary Course without Formalities of Proceedings." The Court of Policies of Assurance could try causes according to its law, that is, according to the usage amongst merchants, provided the proceedings were not contrary to the common law. By 13 and 14 Car., 2 C. 23, it was enacted that any three of the commissioners, one being a Doctor of the Civil Law, a barrister of five years' standing, might proceed as five had done.

† Hazard's Annals. ‡ Proud 1, 193.



During the first year of Penn's administration about twenty ships arrived with passengers, and a somewhat greater number of trading vessels of different classes. Ship building was commenced in 1683, by William West, on the site afterwards of Vine-street wharf. In 1684 the erection of Carpenter's wharf and other wharves was begun seven and one-fourth miles, by the channel of the Delaware, above the mouth of the Schuylkill. Each arrival of a vessel added to the building growth and the trade growth of the settlement. Furs and skins obtained from the Indians, with tobacco, had constituted return cargoes of Swedish vessels previously arriving in the Delaware. Custom duties had been levied upon the commerce by way of the river, under the Duke of York laws. Under the Proprietary charter the government of the Province had authority to levy import and export duties secondary to those levied under the crown. Major William Dyer was appointed in 1686 collector in the Province of Pennsylvania, by the Commissioners of his Majesty's Customs. The Assembly at Upland, by act passed in March, 1683, chapter 97, declared that "all Rum, Wine, Brandy and Strong Waters that shall be imported into this Province or Territories thereof, shall pay to the Proprietary and Governor as a custom Two pence by ye Gallon"; chapter 98 imposed a duty of 12d. upon exported bull, steer and cow hides, 9d. upon beaver skins, and 9d. also upon other peltry when of the value of beaver skin; on deer skins one-half penny per pound weight. A French vessel, entering with irregular papers, as the *Harp of London*, Robert Hutchins, master, was seized as not being free to trade with the Colonies, and by the Provincial Council, exercising the jurisdiction of a court of admiralty (1684), was condemned, and the vessel was sold at auction for £59 10s. 6d.

The merchants of London who made it "their trade to insure," were writing policies "publick" and "private" (the former at the Publick Office of Assurance, the latter agreed upon between Merchant and Merchant in private), outwards and inwards on ships and goods to or from ports in the Western world. The insurance on freight was of rare and indefinite practice, and of indefinite law, mercantile or judicial.\* The last insurance was prohibited by the French *ordonnance* of 1681, at least in respect to freight yet to be earned.† But as "a custom of merchants . . . insurance

\* The insurance contract had been subject in England to but little common law adjudication. Park, in his Introduction to a System of the Law of Marine Insurances (Dublin, 1792) says, "I am sure I rather go beyond bounds if I assert that in all our reporters from the reign of Queen Elizabeth to the year 1756, when Lord Mansfield became Chief Justice of the King's Bench, there are sixty cases upon matters of insurance. Even those cases which are reported are such loose notes mostly of trials at *Nisi Prius*." (xliii.) "So little were the judges acquainted with the nature of the contract that so late as the 30 and 31st of Elizabeth's reign [1589] it became a question where an action upon a policy of insurance should be tried. . . . The policy was on a ship from *Melcombe Regis* in the county of Dorset to *Abbeville* in *France*. The plaintiff declared that the ship in sailing towards *Abbeville* to wit on the river of *Soane* was arrested by the King of *France*. The parties came to issue upon the question whether the ship was so arrested or not and it was tried before Lord Chief Justice Wray in the city of *London*, and a verdict was found for the plaintiff. In arrest of judgment it was moved that this issue arising merely from a place *out of the realm* could not be tried in *London*. But it was resolved by the court that this issue should be tried where the action was in this case brought, for the promise which is the ground and foundation of the action was made in *London* and the arrest now in issue is not the ground of the action which is founded on the *assumpsit* and the arrest is the breach of the *assumpsit*." (xxxix.)

† Insurance on freight comprehends expenses incurred for the recovery of freight; for agreeing to secure a thing involves liability for expenses incurred to promote the security; cost of claim or controversy

arose in modern Europe. Merchants were its sole inventors. The custom of merchants supplied the rules by which it was governed and for a long period all its controversies were exclusively decided, either by arbitration of merchants or by tribunals especially established for their use. It was not a subject of positive law nor within the jurisdiction of the ordinary courts of justice."\*

In addition to shipment of tobacco and skins from the new town, a surplus of wheat, corn, flaxseed, pork, etc., began to accumulate for export. Before the war beginning in 1688, goods shipped for account of, say A. B., of London, were insured in the following terms:—

IN THE NAME OF GOD, AMEN.

I, A. B., of London, Merchant, as well in his own Name, as for and in the Name and Names of all and every other Person and Persons to whom the same doth, may, or shall appertain in part, or in all, doth make Assurance, and causeth himself, and them, and every of them to be Insured lost or not lost from *Philadelphia in Pensilvania*, to the *Port of London*, upon any kind of Goods and Merchandize whatsoever, laden or to be laden aboard the good Ship, called the *Fame of London*, burthen of three hundred Tuns, or thereabouts, whereof is Master under God for this present Voyage D. S. or whosoever else shall go for Master in the said Ship, or by whatsoever other name or names, the same Ship, or the Master is, or shall be named or called, beginning the Adventure upon the said Goods and Merchandize, from, and immediately following the loading thereof aboard the said Ship at *Philadelphia*, and so shall continue, and endure, until the said Ship with the said Goods or Merchandize whatsoever shall be arrived at the *Port of London*, aforesaid, and the same there safely Landed: And it shall be lawful for the said Ship in this Voyage to stop and stay at any Ports or Places between *Philadelphia* and *London* without prejudice to this Insurance; the said Goods or Merchandizes by agreement is, and shall be valued at Three hundred Pounds sterling, without farther account to be given for the same. Touching the Adventures and Perils which we the Assurers are contented to bear, and do take upon us in this Voyage, they are of the Seas, Men of War, Fire, Enemies, Pirates, Rovers, Thieves, Jettézones, Letters of Mart and Counter Mart, Surprisals, Takings at Sea, Restraints and Detainments of all Kings, Princes, and People, of what Nation, Condition or Quality soever, Arrests, Barratry of the Master, and Mariners, and of all other Perils, Losses, and Misfortunes that have, or shall come to the Hurt, Damage or Detriment of the said Goods and Merchandize or any part thereof. And in case of any loss or misfortune, it shall be lawful to the assured, his, or their Factors and Servants, and Assigns, to sue, labour and travel for, in, and about the defence, recovery, and safeguard of the said Goods and Merchandizes, or any part thereof, without prejudice to this Insurance; to the Charges whereof we the Assurers will contribute each one, according to the rate and quantity of his Sum herein assured. And it is agreed by

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therefor is included in *loss*. If the owner of the vessel should fail to receive his freight after undergoing such expense, the insurers are answerable for the freight; so decided in the year 1631. (Roccus: *Notabilia de Navibus et Naulo*; item *de Assecurationibus*. Note xci [on insurance], Naples, 1655.)

The owner of a ship chartered to carry goods to Naples was insured on the freight contracted for and the vessel was captured by enemies. The owner proceeded against the insurers, contending that a person serving for hire should receive wages for the time appointed if it were not his fault that the period of the labor was shortened—he having begun the work. The insurers were condemned to pay the whole freight. (*Id.* Note xcvi.)

\* Duer: *The Law and Practice of Marine Insurance*; New York, 1845; 1, 20. But long before Chief Justice Mansfield's adjudications, breaches were made in the Court of Policies of Assurance of London, notably in one instance reported in *Siderfin*, which we here cite from the *Law of Bills of Exchange, Promissory Notes, Bank Notes and Insurances*, by T. Cunningham, Esq., 2 ed., London, 1761, 164:—

"An Action on the Case was brought for a Thing pending in the Court of Policy of Assurance; the suit there was dismissed. The Question was if the Party might have an Action at Common Law for the same Thing which he had sued for in that Court. But the whole Court held that the Action lies. For this Court being erected by the Statute has like other Courts of Equity, Jurisdiction *in Personam* only and not *in Rem*; for it is a certain Rule, that a Decree in a Court of Equity shall not be a Bar in an Action brought at Common Law and adjudged that the Plaintiff may have his Action at Common Law. 2 *Sid.* 121. *Mich.* 1658, B. R. *Came v. Moyer*."

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"Now there is no such Court in Being." (*Lex Mercatoria*, by Giles Jacob, 2 ed; in the Savoy [London] 1729, 85.)



us the Insurers, that this Writing and Assurance shall be of as much force and Effect, as the surest Policy, or Writing of Assurance heretofore made in *Lumbard-street*, or now within the *Royal-Exchange, London*. And so we the Assurers are contented, and do hereby promise, and bind our selves each one for his own part, our Heirs, Executors, and Goods, to the Assured, his Executors, Administrators or Assigns, for the true performance of the Premises, acknowledging our selves paid the Consideration due unto us for this Assurance by A. B. at the rate of Three Pounds, Ten Shillings, *per* Hundred pound sterling. In Witness whereof, we the Assurers, have subscribed our Names, and Sums; Assured in *London*.

I, R. D. am content with this Assurance, for the Sum of one hundred Pounds, *London*, this 28th of August, 1685.

I, M. T. am content with this Assurance, for the Sum of one hundred Pounds, *London*, this 28th of August, 1685.

In 1688 fourteen cargoes of tobacco were exported; this year ten vessels were despatched with products of the Province to the West Indies; then followed war, depression of commerce, but the improvement of the town was not stopped. In 1697, war between England and France temporarily terminating, exports to Great Britain alone were in value, £3,347, imports therefrom, £2,997. The wharves at High, Chestnut, Walnut and Mulberry streets were constructed by 1700. James Logan, Secretary of the Province, who arrived in December, 1699, wrote to William Penn, in London, 14th of Fifth Mo., 1704 (England then in conflict with France and Spain—war of the Spanish Succession), as follows—the Proprietor being “tender as to insurance” in connection with the commercial ventures with which he was associated with Logan:—

I have lately wrote four several ways to John Askew to insure £300 on thy account on John Guy from Carolina, some of which must needs come to hand. Isaac Norris has done the same, as William Trent also to his correspondent T. Coutts. I know not what to say of that vessel—when that voyage was projected nothing could promise better, there being a great probability of making our money sterling, but instead of that nothing could have happened worse. . . . There is not any probability of any convoy again from these parts this year, and it was upon this we wrote for insurance, as before; but now we much fear whether it will be possible to persuade the master to sail, or to get men to go home, and that instead of sailing directly from Virginia, according to our orders, which there wait him, he will come in hither. (Correspondence between William Penn and James Logan, printed for the Historical Society of Pennsylvania, 1872, 1, 301.)

The following was written by Penn, from London, to Logan, under date of 16th of Eleventh Mo., 1704-5:—

The Barbadoes fleet, coming home so late, met both with storms of wind and guns, the French falling in among them; so that of 120 sail not above 80 and odd got in, where out of 40 odd hogsheads of sugar I have lost 30, and Edward Singleton carried into France. They freighted upon five vessels, one burnt, which Edward came out in, had 10 hogsheads, and two were taken that had 10 hogsheads each . . . As for Guy no news yet. . . . J. Askew ensured £100 upon thy letter, but the insurer broke, and the 20 guineas\* lost. This done upon the former intimations. Ensurers fail much.† . . . (*Id.* 1, 353.)

\* War premium upon risk of £100.

† “So soon as you hear of a certain that a Loss is happened, you must inquire at the Office for the Insurers (if you know them not) and acquaint them of the Loss, and how you come to know it, and desire them to inform themselves of the Truth of it if they please, and are not satisfied with your report. When they are satisfied there is a real Loss, there is generally an abatement of 10 *per Cent.* for prompt payment; for if they are punctual Men, and value their Reputations, they will presently pay you; if not they will shuffle you off, and endeavor to find out flaws, and raise Scruples for a larger abatement than ordinary; and sometimes will keep you a Year or two out of your Mony, and many times never pay; but generally get, in case of Loss 15 or 20 *per Cent.* abated, I have known 40 *per Cent.* abated, upon very small Pretensions; which makes a common Proverb about such Insurers, *What is it worth to Insure the Assurers?* Be careful therefore to deal with Honest Men; that value their Reputation when you have any thing to be Insured.” (*Panarithmologia*, by W. Leybourn, London, 1693, Appendix, 38.)

Notwithstanding the Proprietary's scruples, in a letter of date of 1st mo., 2d, 1706-7 the secretary thus insisted:—

I wrote thee in my former letter to get insured upon the ship *Diligence*, Barth. Penrose, master, burthen about 150 tons, the value of £500 or £600 sterling. She is to be sent from hence to Virginia, there to load, and thence to England, with convoy, directly for London, if any offers; if not, then north about Scotland, and accordingly she ought to be insured from hence to Virginia and thence as aforesaid. But money comes in so very slow that I shall be hard put to it to make good my intentions. However, I shall strain to my utmost. I beseech thee not to be scrupulous in insuring, for if I have any right notion of the matter, 'tis as just and lawful as any other part of trade. (*Id.* 2, 197.)

French privateers from Martinico and St. Domingo cruised along the coast in the vicinity of the capes of Delaware bay and made several captures—even taking prizes in the bay. Logan wrote Fourth Mo., 1708: "This week in four days we have had four vessels of this river sunk and burnt." (*Id.* 2, 275.)

The war beginning in 1702 ceased in 1713, and in the latter year the exports to Great Britain were reduced to £178 in value, though the imports amounted in value to £17,037. Pirates added to the uncertainties of shippers, and by report such pirates were often in connivance with parties on land—even persons in authority. The freebooter Kyd had been the theme of ballad and story. In 1717 when the notorious Teach, called Blackbeard, depredated from Cape May to Cape Henry, it was estimated that the number of pirates on the coast was fifteen hundred, which being about the number of the adult male population of the town, evinced that the activity of the sea-bandits had magnified their numerical strength in the apprehensions of the people. To the governor of New York, Logan wrote that a vessel had been sent out against the pirates, for "we are in manifest danger here unless the King's ships take some notice of us. They probably think a proprietary government no part of their charge." War between England and Spain, 1717 and 1718, was somewhat obstructive of trade in a period in which exports tended to increase and imports actually did increase. "Warranted to depart with convoy" had become a frequent clause in the policy. Peace again intervening, the clearances from Philadelphia in 1719 numbered 128 vessels, tonnage 4,514; increasing to 140 vessels in 1720,\* but with tonnage diminishing to 3,982.

Insurance exists by reason of operative hazards, but insurance must rest on minimum hazard of itself. In a chronic state of warfare and with the ocean almost as free to the sea-robber as to the peaceful merchantman, the Men of War, Enemies, Pirates, Rovers, Letters of Mart and Counter Mart,

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\* This year the Royal Exchange Assurance Company and the London Assurance Company were created by 6 Geo. I, C. 18 ("His Majesty having received several Petitions from Great Numbers of the most Eminent Merchants of the City of London" thereto), "each a separate Body, Politic and Corporate, for the Assurance of Ships and Merchandizes, at Sea, or going to Sea or for lending Money upon Bottomry"; revocable at expiration of 31 years, and "All other Corporations, and all Partnerships for assuring Ships or Merchandizes at Sea or for lending Money upon Bottomry, shall be restrained from underwriting any Policies, or making any Contracts for Assurance of Ships or Merchandizes at Sea or going to Sea, and from lending Money by way of Bottomry, and if any Corporation or Persons acting in such Partnership (other than one of the two Corporations to be established) shall underwrite any such Policy, or make such Contract for Assurance of Ships, &c., or agree to take any Premium for such Policies, any such Policy shall be void, and every sum so underwritten shall be forfeited, and may be recovered, one Moiety for the use of the Crown, the other to the Person who shall sue for the same in any Court of



Takings at Sea were the chief jeopardies to which the policy applied. Philadelphia merchants were not in position to assume the function of the underwriter, though appreciating the need, convenience and benefit of local underwriting. As yet London was normally the insurer of Philadelphia with all the drawbacks of the London insurance. The metropolis of the kingdom was secure, the colonial town or "city" was in peril. Local shippers, through their correspondents, had sufficient insurance facilities in London, and besides, as a matter involving the exercise of much confidence, insurance called for established reputation, and the individual setting himself up in a town of about a thousand houses built in the Western wilds, in competition with the assuring merchant princes of great old London, experienced in the undertakings of such perilous Adventures, was likely to put himself in a suspicious position. The *security* of the London underwriters was largely unquestioned, but they drove sharp bargains, and with ways and means of worrying the loss claimant, frequently got large abatement. In some justification of this, it is to be said that they had to fight in their general writing a vast amount of fraud. As a rule, they never whined, and took the mischances of their vocation as manfully as they accepted in the policy "Barratry of the Master and Mariners."

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Record at Westminster.—And if any Corporation or Persons acting in such Partnership agree to lend money by way of Bottomry contrary to this Act, the Security shall be void, and such agreement shall be adjudged an Usurious Contract: Nevertheless any Particular Person shall be at Liberty to underwrite Policies, or may lend Money by way of Bottomry, so as the same be not on the Account or Risque of a Corporation, or of Persons acting in Partnership." Such monopoly of corporate and associate marine insurance and analogous bottomry loan was purchased by proffer of £300,000 for each corporation by the mercantile projectors to the ministry, to be paid toward the discharge of the government indebtedness arising from the absence of parliamentary provision to meet arrears in the civil list. Partial payment of such sum into the exchequer having been made, the corporations were released upon payment of £150,000 each by an act of next year. By statute of 11 Geo. I. (1725), "all Promissory Notes for Assurance of Ships or Merchandizes" in either company were declared void.

## CHAPTER II.

*Peace—Pirates driven off—Interchange of Risk by the Philadelphia Merchants—Proposed Public Insurance Brokerage—Continuance of London Underwriting for Philadelphia Account—Proposition of Francis Rawle—Godfrey's Reflecting Quadrant, Water-Tight Compartments of Vessels suggested by Franklin—Arrivals and Clearances at the Port, 1735—War—Letter of Marque—Policy to Lawrence Williams at and from London to Philadelphia (S. G.), 1739—Schedule of Policies of William Till—John Smith, of King (Water) Street—The Enemy in the Bay and River, Pilotage Regulation—Peace—Order of Restitution by the King of Spain for Latest Captures—Insurance Office of Joseph Saunders—Act of Parliament Concerning Wager Policies, etc.—Policy to John Kidd, on Lawful Goods, Merchandise or Cash, at and from Philadelphia to London, 1749—Policy on Ship for Account of William Fisher, at and from Barbadoes to Philadelphia, 1751—Thomas Wharton—War—Walter Shee. (1721-1756).*

THERE had been times when the port, which was the city, had been "full of sailors" belonging to detained vessels. With peace continuing in 1721, and the pirates driven off to the Gulf of Mexico and the Caribbean Sea, commerce was proceeding with unimpeded navigation, and the question of marine insurance risks was narrowing down to the natural perils of the sea and the fitness of the vessel and the cargo for the voyage. Of insurance as a private practice of merchants in interchange of hazards among one another, there is neither record nor relic; but to whatever extent it existed, the public underwriter was recognized as a necessity to afford the distribution of risk which is protection.

Insurance of Philadelphia shipping interests by London underwriters had its inconveniences, and complaint of insured against the insurers, as of insurers against insured, is something of a normal condition. Like laws and government, underwriting could not be made perfect; but local underwriting might be better adapted to the requirements of the place. Taking his cue from the situation and from the expressions of the insured, the man appeared to project a "public insurance office," which, in the language of the time, meant a brokerage, to supply both the risks and the policies for those persons willing to assume the former by subscribing to the latter for the consideration specified. Seemingly confident of his ability to obtain the underwriters, John Copson, of High street, made by advertisement in the American Weekly Mercury of May 25, 1721, this proffer to the merchants of the city "and other Parts"\*:—

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\* Copson's name had disappeared at the date of his advertisement from the imprint of the American Weekly Mercury, which at the beginning of 1721 was: "Philadelphia, Printed and Sold by Andrew Bradford, at the Bible, the Second Street, and also by John Copson, in High Street, and William Bradford, in New York, where Advertisements are taken in."

*ASSURANCES from Losses happening at Sea, &c., being found to be very much for the Ease and Benefit of the Merchants and Traders in general; and whereas the Merchants of this City of Philadelphia and other Parts have been obliged to send to London for such Assurance, which has not only been tedious and troublesome, but even very precarious. For remedying of which, An Office of Publick Insurance on Vessels, Goods and Merchandizes, will, on Monday next, be Opened, and Books kept by John Copson, of this city, at his House in the High Street, where all Persons willing to be Insured may apply: And Care shall be taken by the said J. Copson That the Assurers or Under Writers be Persons of undoubted Worth and Reputation, and of considerable Interest in this City and Province.*

How many, if any risks, were underwritten through Copson is unknown. The London underwriters appeared, however, after all to be more satisfactory, and insurance went on as before.

It went on with the least publicity, that is, as any private contracting between two or more parties, and by the earliest of American political economists, Francis Rawle, was written of as rather a distant practice than a Philadelphia usage, having, as described, fallen into disuse. Rawle, writing anonymously, and described by Governor Keith, in an address to the Assembly, as "some Ingenious, Disinterested Person," whose "views deserve to be Encouraged, and will become a very proper Subject for the Deliberation of this and future Assemblies," thus defined, in 1725, the benefits and character of insurance, and submitted a proposition for the establishment of an Insurance Office:—

Having thus far discours'd of most of the Branches of Trade we are capable of, there is yet one great Encouragement, to adventure in the Discovery and Prosecution of new Markets; more safe to the industrious Adventurer; namely an *Insurance-Office* in one or more of these Colonies; which is the interesting of divers in the Loss or Profit of a Voyage, and is now become so much the Practice of *England*, that Insurance may be had in divers Cases as well against the Hazards at Land, as Casualties at Sea, which must be acknowledged not only to be safe, but a great Encouragement to adventure; for it may so happen that a Person may sometime adventure his ALL, and then in case of a Loss he may be rendered incapable of a future Trade, to the Disadvantage of the publick, and (it may be) to the Ruin of himself; whereas could he get a part of his Interest either of Ship or Cargo insured, (tho' in Case of safe Arrival he parts with a part of his Profit, yet) in Case of loss, he is secur'd of such part as he insureth, which may be sufficient Bottom to begin a new Adventure: How far this may conduce to the Trade of this River, is obvious to any Man of Thought. Now whereas there has been some Attempts made at *Philadelphia*, which dropt and prov'd abortive, (for what Reasons we never could learn) we humbly propose to the Legislature that an Office be erected and supported by a Fund arising out of the Interest of the Loan-Office. This will be a good and safe Bottom, and cannot be easily overset by a few losses; and we conceive will contribute to keep up the Value of our Paper-Credit by promoting of Trade, Navigation and Building of Ships, and in Consequence, of great Advantage to this River: Which we refer to the Consideration of the Merchant. (Ways and Means for the Inhabitants of Delaware to become Rich, 62-63.)\*

This was a proposal for a semi-governmental institution, not a business corporation, without recognizing the prohibition of the statute of 6 Geo. I, cap. 18. By the Proprietary Charter, laws enacted for the government of the Province were to be sent to England for royal approval within five years after their adoption, under penalty of becoming void.

The reflecting nautical quadrant, first made in 1730 by a Philadelphia glazier, Thomas Godfrey (who was self-taught as a mechanic and mathematician), *i. e.*, the use of a graduated arc of a circle for the measurement of an angle, employing in its construction a theorem of optics, was

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\* "Printed and Sold by S. Keimer, in Philadelphia, MDCCXXV."



tested in Delaware bay in 1731, by Joshua Fisher, of Lewes, when it was found useful for determining the latitude of a vessel's course by ascertaining the meridian altitude of the sun above the horizon. In 1732 this quadrant was brought into practice on vessels trading between Philadelphia and the West Indies. Subsequently, Benjamin Franklin, a Philadelphia printer, made some suggestions as to the improvement of the model and sailing qualities of vessels, including in his suggestions water-tight compartments.

With the population of the city then about seven thousand, in the year ended March 25, 1736, the arrivals at the port were 192 vessels, of which 51 were ships and 44 brigs; the clearances numbered 207; arrivals and clearances being respectively as follows:—

Arrivals.		Clearances.	Arrivals.		Clearances.
London, . . . .	11	10	New Foundland, . . . .	3	1
Bristol, . . . .	9	3	Boston, . . . . .	17	10
Liverpool, . . . .	2	0	Rhode Island, . . . .	8	7
Ireland, . . . .	14	23	Maryland, . . . . .	7	13
Lisbon, . . . . .	6	13	North Carolina, . . . .	7	5
Cadiz, . . . . .	6	2	Virginia, . . . . .	5	2
Gibraltar, . . . .	1	6	New York, . . . . .	4	2
Antigua, . . . .	20	20	South Carolina, . . . .	1	15
Barbadoes, . . . .	19	26	Georgia, . . . . .	1	2
Jamaica, . . . .	9	16	Not specified, . . . .	30	22
St. Christopher, . .	9	9			
Turk's Island, . .	3	0			
			192	207	

The shipbuilding was over one thousand tons a year, and in shipments of corn to Portugal and Spain the vessels were at times sold as well as the cargoes.

War again between Great Britain and Spain beginning in 1739 in preliminary hostilities, there was formal proclamation thereof April 14, 1740, at the Philadelphia court house. In the summer of 1739 there had been difficulty with Spain about Campeachy logwood and Tortugas salt, and Governor Thomas issued the first letter of marque in commissioning the George, a sloop, carrying ten guns and ten swivels, William Axon, commander, and sailing in November.

Lawrence Williams, one of the largest shipping merchants of London trading between England and the Colonies, had been in Philadelphia more than once in relation to commercial affairs. An armed merchantman up at London for Philadelphia, was insured S. G. (on ship and goods), in London, by Mr. Williams, as follows—five underwriters subscribing to the insurance on the vessel, and 56 to the insurance on the cargo:—

IN THE NAME OF GOD, AMEN.

*Mr. Lawrence Williams* as well in his own Name as for and in the Name and Names of all and every other Person or Persons to whom the same doth, may, or shall appertain, in Part or in All, doth make Assurance, and causeth *himself and them*, and every of them to be insured, lost or not lost, at\* and from *London to Philadelphia*, upon any kind of

\* If a Ship be insured *from* the Port of *London* to Barcelona, or other foreign Port, and before the Ship breaks Ground she happens to take Fire, and is consumed, the Assurers are not obliged to answer; for the Adventure did not commence till the Ship was gone from the Port of *London*. But if in the Policy of Insurance the Words *at and from the Port of London* had been inserted, then the Assurers would have been liable upon such a Misfortune. And if the Ship had broke ground and afterwards been driven by Storm back to the Port of *London*, and there had took Fire, the Insurers must have answer'd. (*Lex Mercatoria*, Giles Jacol, 2 ed. 87, 88).

*Goods and Merchandize*, and also upon the *Body, Tack'le, Apparel, Ordinance, Munition, Artillery, Boat and other Furniture*, of and in the good Ship or Vessel called the *Constantine*, whereof is Master under GOD, for this present Voyage, *Edward Wright*, or whosoever else shall go for Master in the said Ship, or by whatsoever other Name or Names the same Ship, or the Master thereof is or shall be named or called; beginning the Adventure upon the said *Goods and Merchandizes* from the Loading thereof aboard the said Ship at *London*, upon the said Ship, &c., from the *fourteenth day of March, 1739-40*, and so shall continue and endure, during her abode upon the said Ship, &c. And further, until the said Ship, with all her *Ordinance, Tackle, Apparel, &c.*, and *Goods and Merchandizes* whatsoever shall be arrived at *Philadelphia*, upon the Ship, &c., until she hath moor'd at Anchor Twenty-four Hours in good Safety; and upon the *Goods and Merchandizes*, until the same be there discharged and safely landed. And it shall be lawful for the said Ship, &c. in this Voyage, to proceed and sail to, and touch and stay at any Ports or Places whatsoever without Prejudice to this Insurance. The said Ship, &c. *Goods and Merchandizes, &c.* for so much as concerns the Assureds, by Agreement between the Assureds and Assurers in this Policy are, and shall be Valued on Ship & Goods both or either as hereunder declared.

The Adventures and Perils which we the Assurers are contented to bear, and do take upon us in this Voyage; are of the Seas, Men of War, Fires, Enemies, Pirates, Rovers, Thieves, Jetizons, Letters of Mart and Counter Mart, Surprisals, Taking at Sea, Arrests, Restraints and Detainments of all Kings, Princes or People of what Nation, Condition or Quality soever, Barrety of the Master and Mariners, and of all other Perils, Losses, and Misfortunes, that have or shall come to the Hurt, Detriment or Damage of the said *Goods or Merchandizes* or any Part thereof. And in case of any Loss or Misfortune, it shall be lawful to and for the Assured, their Factors, Servants, and Assigns, to sue, labour and travel for, in and about the Defence, Safeguard and Recovery of the said *Goods and Merchandizes* or any Part thereof, without Prejudice to this Insurance; to the Charges whereof we the Assurers will contribute each one, according to the Rate and Quantity of his Sum herein assured. And it is agreed by us the Insurers that this Writing or Policy of Assurance, shall be of as much Force and Effect, as the surest Writing or Policy of Assurance heretofore made in *Lombard Street*, or in the *Royal-Exchange*, or elsewhere in LONDON. And so we, the Assurers, are contented, and do hereby promise and bind ourselves, each one for his own Part, our Heirs, Executors and Goods, to the Assured, their Executors, Administrators and Assigns, for the true Performance of the Premises, confessing ourselves paid the Consideration due unto us for this Assurance by the Assured, at and after the rate of *Three Pounds Ten Shillings* per cent. And in Case of Loss (which God forbid) the Assureds to abate Ten Pounds per cent. In Witness, &c., we the Assurers have subscribed our Names and Sums, Assured in *London*. *In case the Ship Departs with Convoy the Insurers to return Ten shillings per cent. The Insurance following is on the Ship only, which is agreed to be valued at Eight Hundred & Forty Pounds.* [Five underwriters, £1000.]

The Insurance following is on Goods only. [56 underwriters, £7565.]

[ENDORSED.]		S. G.	
London, the 18 March, 1739.		Mr. Lawrence Williams	
Dr. to Samuel Haynes,		in Exchange-Alley.	
£4600 Assured on and in the Con-		stantine, Edward Wright, at and	
from London to Philadelphia, at		£3 10s. pr. ct., . . . £161	
Policy, . . . . .		4s. 6d.	
(Entered), . . . . .		£161 4s. 6d.	
16 April, 1740.		£2000 added, . . . . .	
7 May, 1740.		£800 added, . . . . .	
14 May, 1740.		£1125 added, . . . . .	
3 June.		£8525 . . . . .	
(Entered.)		£298 12s. 6d.	
No. 1797.		£40 added, . . . . .	
		£1 8s. 6d.	

Philadelphia privateers were now cruising on the Spanish Main, and Spanish privateers were at the capes of the Delaware, capturing vessels bound to or from Philadelphia. June 11, 1744, war was again, or rather further, proclaimed by the governor. France was now with Spain against England, and French cruisers were added to the Spanish ones at the capes.

Still the imports from Great Britain were scarcely reduced, but exports were—the latter falling off to £3,822, in 1747; but they made an advance in 1748, before the news of the cessation of hostilities, and with bearing “one another’s burdens” in war-commerce by shipping men, the spirit of underwriting had grown, and Philadelphia merchants were venturing upon subscriptions to policies as a special independent business.

The very extent of the insurance transactions between London and Philadelphia as enlarging the need of Philadelphia underwriters was enforcing local practice of underwriting. To show this it is sufficient to transcribe from three sheets of a schedule of London “Policy’s of Insurance,” which transcription is here presented, adding to such schedule a premium column from “An Account of the Severall Insurances that have been made by Lawrence Williams for and on account of Mr. William Till of Philadelphia, Commencing the 6th September 1735, and Ending the 3d September 1745, & which have been sent to him from time to time by Severall Accounts Current & Invoices furnished him by the said Lawrence Williams & the Summs insured on each Respective Ship & Voyage, Premiums Paid and Commissions thereon”:—

*Policy’s of Insurance sent to Mr. John Swift,\* which relate to Mr. William Till† of Philad.*

	Sum on Policies.	For W. Till’s Account.	Premium per ct.	
	£	£	£ s.	
1735–Sep’r.	975	475	2	in the Frame Gally, John Green, to Philada.
March.	2250	600	2	in ye St. George, John Lindsay, to Philada.
1736–Jan’y.	3600	800	2	in ye Diamond, Slater Clay, to Philada.
1737–Aug’t.	340	240	2	in ye Lancashire, Corbin, @ Philada to Lond’n.
Jan’y.	300	300	2	in ye William, Dan. Cheshunt, @ Cadiz to Sallee.
ditto.	5775	1125	2	in ye Constantine, Wright, to Philada.
1738–Sep.	250	250	2	in ye Agnes, J. Brame, @ Philada to London.
Aug.	300	300	2 10	in the Wm. Dan’l Cheshunt, @ Gibraltar to Cape De Verd Islands & Philada.
Decem’r.	7201	850	2	in the Constantine, Wright, @ Londn to Philada.
1739–Aug.	1000	250	5	in the Mary Ann, Cs. Hargrave, @ Philada to Londn.
& 250				
Novem.	700	100	6 6	in the Drake, @ Philada to Lisbon.
Aug’s.	3100	600	. . .	in ye Lydia, John Stedman, Londn to Philada.
Sep’r.	700	60	. . .	in ye Apollo, Brown, @ Londn to Philada.
March.	8565	1165	5	in Constantine, Wright, Londn to Philada.
		260	. . .	pr Invo. &c., taken to his own acct in do.
1740–June.	800	100	6	in the Clymer, Evan Bevan, Philada to Lisbon.
Sep’r.	600	220	3 10	in the Tottenham, Smyter, Londn to Philada.
Decem’r.	1300	67	3 10	in the Adriatick, Huddy, do to do.
Jan’y.	990	200	5	in the Robert, Law’r Dent, Philada to Lond’n.
& 325				
Do.	1300	600	6 6	in ye Molly, Jo. Arthur, do to Lisbon.
Feb’y.	4345	1250	3 10	in ye Sarah Gally, Monzies, Londn to Philada.
Ditto.	1000	500	4 4	in ye Molly, Joseph Arthur, Lisbon to Philada.
Jan’y.	1275	100	7	in the Sea Flower, Hunter, Philada to Opo’o.
1741–Oct.	200	200	4 4	in the Mary, Tho. Oliphant, BBd. to Philada.

\* A merchant of Philadelphia and Collector of Customs, 1762–71.

† Mayor of Philadelphia in year ended October 4, 1743.



*Policy's of Insurance acct. of Wm. Till of Philada, sent Mr. Swift:*

	Total Sum Ins'd in ye Policy vizt.	The Sum Acct. of Wm. Till, vizt:	Premium per ct.	
1741-Aug.	£ 2700	£ s. d. 55	3 10	Vernon, Redmond, Londn to Philada.
June	& 3/8 of 1750	525 1000	. . .	Molly, Joseph Arthur, @ Philada to Antigua.
Jan.	1511	500	3 3	Molly, John McKitterick, Philada to BBd.
Ditto.	5100	132	4	Mercury, Chs. Hargrave, Londn to Philada.
1742-May	1016	333	3	Molly, McKitterick, @ BBd. to Philada.
	475	198 14	. . .	
	900	300	. . .	
Sep'r.	600	200	4	Molly, Cornelius Bown, @ Philada to Jama.
	100	33 6 8	. . .	
June	2000	750	6	Shippen, Norris, @ Philada to Lisbon.
Aug't.	1050	450	5	do. . . . Lisbon to Philada.
Sep't.	1969	1545	4	Mary, Nichols. Stephenson, Lond'n to Philada.
Oct.	355	128	4	Warren, Saml. Jennings, do. to do.
Feb'y.	500	300	. . .	Shippen, Wm. Norris, Philada to BBds.
Jan'y.	875	375	. . .	Do. . . . Do.
Feb.	290	125	. . .	
1743-Mar. 31.	400	133 6 8	7	Sally, Jo. Rivers, Jama to Philada.
June	1165	500	3	Shippen, Norris, @ Barbado's to Philada.
July	600	500	. . .	Do. . . . Do.
Aug.	387	32	4	Catherine, John MacKnight, Londn to Philada.
1744-May	2000	750	. . .	Shippen, Norris, @ Carolina to Cowes. (Londn) say Amsterdam.
{ £ 490 June 100 Return }	390	300	. . .	Burlington, Condry, @ Philada to BBds.
1745-Aug.	480	200	5 5	Shippen, Norris, @ Amst'm to London.

*Policy's which Cannot be Sent for the following Reason's Vizt:*

No.		£	
1	1738	300	Wm. ———, James Blythe, @ Philada to N'f L'd.
2	1739	230	Pennsbury, Wm. Hellier, @ Philada to London.
3	. .	150	in the Constantine, do.
4	. .	180	in R'd & Eliz'a, Cap. Howell, Philada to Lisbon.
5	1740	200	Lawrell, Hugh Trisse, Philada to Lisbon.
6	. .	150	Constantine, Wright, do. to London.
7	. .	400	Molly, Jo. Arthur, from Antigua to England or Philada.
8	1742	150	Goodman, Perdue.
9	. .	825	Shippen, Wm. Norris, @ Philada to Lisbon.
10	in 1737	300	William, Dan'l Clifton, @ Philada to Cadiz.

Reasons Why These Policy's are not sent:

Policy's when any Average Loss or return are Settled on them the underwriters allways Cancell them.

- No. 1. Cancelled per Aver'e Settled & Cr., Wm. Till, £14 12s. 7d. Aug. 1740.  
 2. Do. pr Prem'm ret'd Cr. 21 Dec'r, 1739.  
 3. Do. pr do in part Cr. 3 Feb. 1740.  
 4.  
 5. Cancelled pr Loss Cr. in Acct. 2d Apr. 1741.  
 6.  
 7. Cancelled 3 pr. ct. ret'd on acct. of the Ship not Coming to Engl'd the 2d June, 1742.  
 8. Cancelled pr Loss Settled and Cr. 11 Oct. 1743.  
 9. Do. pr Average Settled and Cr. 8 of May, 1746, £52 5s. 8d.  
 10.

John Smith, a young merchant living on King (Water) street, wrote in his diary, or journal, June 13, 1746, the following relative to debating an abandonment: "Busy with the insurers of the sloop, but could not get them to settle, to see whether they shall have her or not."\*

War being still prosecuted, against the devices of the enemy the following warning to pilots on the water-approach to the city was issued:

BY THE HONOURABLE THE PRESIDENT AND COUNCIL OF THE PROVINCE OF PENNSYLVANIA.

A PROCLAMATION.

Whereas divers Insults, Captures and Depredations were made and committed by our Enemies, the last Summer, in and near the Bay and River of Delaware, several Vessels taken, Plantations plunder'd, and the Goods, Negroes and Effects of the Inhabitants carried off, all which was the more easily effected by Means of some Pilot-Boats, using the Bay and River aforesaid, which the Enemy, by pretending to be Friends, had got Possession of. To the End therefore, that no Means in our Power may be wanting for the preventing the like Insults, Captures and Depredations, for the future; and for the Security as well of the Inhabitants on both Sides of the Bay and River of Delaware, as of the City of Philadelphia, and the Trade thereof, in this Time of common Danger: We have thought fit to issue this our Proclamation, strictly commanding and enjoining all Pilots whatsoever, using the Bay or River of Delaware, and all other Persons taking Charge of any Ship or Vessel in or near the said Bay or River; That from and after the Tenth Day of April, to the Twenty-fifth Day of September, in every Year, during the Continuance of the present War between Great Britain, and France and Spain, or either of them, they do not presume, on any Pretence whatsoever, to go on board any inward bound Vessel, until the Commander thereof, or some of the Mariners or People, have first come on Shore, to the End it may be more certainly known whether such Vessel belongs to British Subjects or not, as they shall answer the contrary at their highest Peril. And for the Discovery of Delinquents, due Care will be taken, and strict Enquiry made, of all Commanders of Ships, Mariners and others, by the proper Officers, to be appointed for that Purpose.

*Given at Philadelphia, under the Great Seal of the said Province, the Eleventh Day of April, in the Twenty-first Year of the Reign of our Sovereign Lord, George the Second, by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, &c., Annoque Domini, 1748.*

ANTHONY PALMER, *President.*

By Order of the Honourable the President and Council, Richard Peters, Secretary.

GOD SAVE THE KING.

On the 24th of August intelligence of the signing of the preliminary treaty of peace at Aix-la-Chapelle was received in the city, and in the following November this notification was issued:—

By the honourable JAMES HAMILTON, Esq., Lieutenant-Governor of the Province of Pennsylvania, and Counties of Newcastle, Kent and Sussex, on Delaware:

In Obedience to His Majesty's Command, signified to me by his grace the Duke of Bedford, one of His Majesty's principal Secretaries of State, I do hereby make known to all His Majesty's Subjects within my Government, That in consequence of an Agreement between the Crowns of England and Spain, His Catholick Majesty has been pleased to direct a general Order to be sent to all his Governors, requiring them to make Restitution to the English of all Prizes taken from them, either by Men of War or Privateers, on this Side of the Line, since the ninth day of August, 1748; and that upon Application made to me by any of the King's Subjects of this Province, who may have Claims on this Occasion, I shall be ready to assist them to the utmost of my Power, to obtain the Restitution aforesaid.

JAMES HAMILTON.

So late as September 1, 1748, Joseph Saunders, importer from London and the West Indies, advertised his removal from Chestnut street to the house in which "Viocall Chubb, dec'd, had lately dwelt, on Rees Meredith's

\* A History of the Insurance Company of North America, by Thomas H. Montgomery, Philadelphia, 1885, 17.



Wharff, [previously Carpenter's wharf,] where he sells rum, loaf and muscovado sugar, coffee, tea, chocolate, . . . . for ready money," but nothing was printed about Insurance; yet less than a year later a policy insuring £450, of date of April 25, 1749, was registered in "Book B" of Joseph Saunders's Insurance Office, "fol. 83," indicating that Saunders had been negotiating insurances for some time;\* but as a member of the Society of Friends, the policies of Saunders could not have been applied to the war Risques of the privateers fitted out at Philadelphia.† (The policy of April 25, 1749, was issued to John Kidd, and is herewith shown.) John Kidd was then keeping store "next door to Capt. John Philips's, on Fishbourne's Wharff."

\* There is a tradition that Anthony Saunders preceded Joseph Saunders as a Philadelphia insurance broker.

† In a statute of the 19th year of George II to regulate insurance on ships belonging to Great Britain, and on merchandizes or effects laden thereon,

The Preamble sets forth that the making Assurances *Interest or no Interest*, or without further Proof of Interest than the Policy, hath been productive of many pernicious Practices, whereby great Numbers of Ships, with their Cargoes, have either been fraudulently lost and destroyed, or taken by the Enemy in time of War; and such Assurances have encouraged the Exportation of Wool, and the carrying on many other prohibited and clandestine Trades, which, by Means of such Assurance, have been concealed, and the Parties concerned secured from Loss, as well to the Diminution of the publick Revenue, as to the great Detriment of fair Traders; and, by introducing a mischievous kind of Gaming or Wagering under the Pretence of assuring the Risque on Shipping and fair Trade, the Institution and laudable Design of making Assurances hath been perverted: and that which was intended for the Encouragement of Trade and Navigation has, in many Instances become hurtful of, and destructive to, the same: For Remedy whereof *it is enacted*,

That, from and after the first Day of *August*, 1746, no Assurance or Assurances shall be made, by any Person or Persons, Bodies Corporate or Politick, on any Ship or Ships belonging to his Majesty or any of his Subjects, or on any Goods, Merchandizes or Effects, laden or to be laden, on board of such Ship or Ships, Interest or no Interest, or without further Proof of Interest than the Policy, or by way of Gaming or Wagering, or without Benefit of Salvage to the Assurer, and that every such Assurance shall be null and void to all Intents and Purposes.

Assurances on private Ships of War, fitted out by any of his Majesty's Subjects, solely to cruise against his Majesty's Enemies, may be made by, or for the Owners thereof, Interest or no Interest, free of Average, and without benefit of Salvage to the Assurer. Merchandizes or Effects from any Ports or Places in *Europe* or *America*, in the Possession of the Crown of *Spain* or *Portugal*, may be assured in such Way and Manner, as if this Act had not been made.

It shall not be lawful to make Re-assurance, unless the Assurer shall be insolvent, become a bankrupt or die, in either of which Cases such Assurer, his Executors, Administrators or Assigns may make Re-assurance to the Amount of the Sum before assured, provided it shall be expressed in the Policy to be a Re-assurance.

After the said first Day of *August*, all and every Sum and Sums of Money to be lent on Bottomry, or at *Respondentia*, upon any Ship or Ships belonging to any of his Majesty's Subjects, bound to or from the *East Indies*, shall be lent only on the Ship, or on the Merchandize or Effects laden, or to be laden on board of such Ship, and shall be so expressed in the Condition of the Bond; and the Benefit of Salvage shall be allowed to the Lender, his Agents or Assigns, who alone shall have a Right to make Assurance on the Money so lent; and no Borrower of Money on Bottomry, or at *Respondentia*, as aforesaid, shall recover more on any Assurance than the Value of his Interest on his Ship, or in the Merchandizes or Effects laden on board of such Ship, exclusive of the Money so borrowed; and in case it shall appear that the Value of his Share in the Ship, or in the Merchandizes and effects laden on Board, doth not amount to the full Sum or Sums he hath borrowed, as aforesaid, such Borrower shall be responsible to the Lender for so much of the Money borrowed, as he hath not laid out on the Ship or Merchandizes laden thereon, with lawful Interest for the same, together with Assurance, and all other Charges thereon, to the proportion the Money laid out shall bear to the whole Money lent, notwithstanding the Ship and Merchandize to be totally lost.

In all Actions or Suits brought or commenced after the said first of *August* by the Assured, upon any Policy of Assurance, the Plaintiff in such Action or Suit, or his Attorney, &c. shall, within fifteen Days after he or they shall be required so to do in Writing by the Defendant or his Attorney, &c. declare in Writing the Sum he hath assured in the whole, and what Sums he hath borrowed at *Respondentia*, or Bottomry, for the Voyage or any Part of the Voyage in Question, in such Suit or Action.

After the said first of *August* any Person, &c. sued in any Action of Debt or Covenant, &c. on any Policy of Assurance, may bring into Court any Sums of Money; and if the Plaintiff shall refuse such Sum of Money, with Costs to be taxed, in full Discharge of such Action, and shall afterwards proceed to Trial, and the Jury shall not assess Damage to such Plaintiff, exceeding the Sum so brought into Court, such Plaintiff shall pay to such Defendant Costs to be taxed.

This Act shall not extend to, or be in Force against any Persons residing in any Parts of *Europe* out of his Majesty's Dominions, for whose Account Assurance shall be made before the 29th of September, 1746; nor against Persons residing in any Parts of *Turkey*, *Asia*, *Africa* or *America*, from whom Assurances shall be made before the 29th of March, 1747.



With peace the exports as well as imports multiplied, the clearances and arrivals of vessels doubling. Joseph Saunders continued to advertise his goods for sale at his store on Reese Meredith's wharf, and kept his insurance office without public announcement thereof. John Smith, before named, Friend, merchant and son-in-law of James Logan, entered in his journal for date of November 10, 1750, as follows: "Was at the Insurance Office and began to underwrite." He had, in 1741, at age nineteen, sailed as supercargo in one of his father's vessels from Burlington, N. J. "Having in Mind to see the Island of Barbadoes and to know the Manner of living at Sea, and to survey the Wonders of the Lord on the Deep, and having my Father's Consent so to do." Abel James was co-partner of John Smith, and Abel James "caused to be assured" the ship *White Oak* at and from Barbadoes as follows in 1751:—

IN THE NAME OF GOD, AMEN.

*I, Abel James for acc't of Wm. Fisher of the City of Philadelphia Merchant have made Assurance, and cause to be assured, (Lost or not Lost) at and from the Island of Barbadoes to Philadelphia—upon the Body, Tackle, Apparel, and all other the Furniture of the Good Ship called the White Oak, of the Burden of        Tons, or thereabouts, whereof is Master under GOD, for this present Voyage Charles Lyons or whosoever else shall go for Master in the said Ship, or by whatsoever other Name or Names the same ship, or the Master thereof, is, or shall be named or called, beginning the Adventure upon the said Ship, Tackle, Apparel &c. at and from the Island of Barbadoes aforesaid, and so shall continue and endure until the said Ship shall be safely arrived at Philadelphia aforesaid, and untill she be moored Twenty and Four Hours in good Safety. And it shall and may be lawful for the said Ship, in her Voyage to proceed and sail to, touch and stay at any Ports or Places, if thereunto obliged by Stress of Weather, or other unavoidable Accident, without Prejudice to this Insurance. The said Ship, tackle, &c. for so much as it concerns the Assured by Agreement made between the Assured and Assurers in this POLICY, are and shall be valued at        without any further Account to be given by the Assured to the Assurers, or any of them for the same. Touching the Adventures and Perils, which we the Assurers are contented to bear, and do take upon us in this Voyage they are, of the Seas, Men of War, Fires, Enemies, Pirates, Rovers, Thieves, Jettesons, Letters of Mart and Counter Mart, Surprisals, Taking at Sea, Arrests, Restraints and Detainments of all Kings, Princes or People, of what Nation, Condition or Quality soever, Baratry of the Master and Mariners, and all other Perils, Losses and Misfortunes, that have or shall come to the Hurt, Detriment or Damage of the said Ship or to any Part thereof. And in case of any Losses or Misfortunes, it shall be lawful to and for the Assured their Factors, Servants and Assigns to sue labour and travel for, in and about the Defence, Safeguard and Recovery of the said Ship or any Part thereof without Prejudice to this Insurance; to the Charges whereof we the Assurers, will contribute each one, according to the Rate and Quantity of his Sum herein assured. And it is agreed by us, the Assurers, that this Writing or Policy of Assurance, shall be of as much Force and Effect, as the surest Writing or Policy of Assurance heretofore made in Lombard-Street or elsewhere in LONDON. And so we the Assurers are contented, and do hereby promise and bind ourselves each one for his own Part, our Heirs, Executors and Goods, to the Assured, their Executors, Administrators and Assigns, for the true Performance of the Premises, confessing ourselves paid the Consideration due unto us for this Assurance, by the said Assured or his Assigns, at three & a half p. Cent.*

IN WITNESS WHEREOF, WE the Assurers have subscribed our Names and Sums Assured in *Philadelphia*, the *Sixth* Day of *June*, One Thousand Seven Hundred and *fifty-one*.

*Memorandum. It is agreed by and between the Assured and Assurers, that in Case of any Loss above Five per Cent., there shall be no Abatement. But that in Case of any Average Loss, not exceeding Five Pound per Cent., the Assurers, by Agreement, are not to pay or allow any Thing towards such Loss.*

*It is further agreed, That if any Dispute shall arise, relating to a Loss on this POLICY, it shall be referred to two indifferent Persons, one to be chosen by the Assured, the other by the Assurer or Assurers, who shall have full Power to adjust the same; but in Case they cannot agree, then such two Persons shall chuse a Third, and any two of them agreeing, shall be Obligatory to both Parties.*

In the Name of GOD,

Amen,

*I*

*John Kidd*

of the City of Philadelphia, Merchant

made Assurance, and cause to be assured, (Lost or not Lost) at and from

*The Port of Philadelphia*  
*to London*

upon all kind of lawful Goods or Merchandize, laden or to be laden upon the good *Ship* called the *Griffin* of the Burthen of *Tons*, or

thereabouts, whereof is Master under GOD, for this present Voyage *Joseph Arthur*

or whatsoever else shall go for Master in the said Ship, or by whatsoever other Name or Names the same Ship, or the

Master thereof, is or shall be named or called, beginning the Adventure upon the said lawful Goods or Merchandize, at

and from *The Port of Philadelphia* - *London* -

and so shall continue and endure until the said Goods and Merchandizes shall be safely landed at *London* -

in her Voyage, to proceed and sail to, touch and stay at any Ports or Places, if thereunto obliged by Strefs of Weather,

or other unavoidable Accident, without Prejudice to this Insurance. Touching the Adventures and Perils, which we

the Assurers are contented to bear, and do take upon us in this Voyage, they are, of the Seas, Men of War,

Jires, Enemies, Pirates, Rovers, Thieves, Jettisons, Letters of Mart and Counter Mart, Surprisals, Taking at Sea, Ar-

rsts, Restraints and Detainments of all Kings, Princes or People of what Nation, Condition or Quality soever, Baratry of

the Master and Mariners, and all other Perils, Losses and Misfortunes, that have or shall come to the Hurt, Detriment or Da-

mage of the said Goods or Merchandize or to any Part thereof. And in case of any Losses or Misfortunes, it shall be law-

ful to and for the Assured *their* Factors, Servants and Assigns, to sue, labour and travel for, in and about the Defence,

Safeguard and Recovery of the said Goods and Merchandize, or any Part thereof, without Prejudice to this Insurance; to the

Charges whereof we the Assurers, will contribute each one, according to the Rate and Quantity of his Sum herein assured. And

it is agreed by us the Assurers, that this Writing or Policy of Assurance, shall be of as much Force and Effect, as the surest Writing

or Policy of Assurance heretofore made in *Lombard-Street*, or elsewhere in *LONDON*. And so we the Assurers are contented,

and do hereby promise and bind ourselves each one for his own Part, our Heirs Executors and Goods, to the Assured *their*

Executors, Administrators and Assigns, for the true Performance of the Premises, confessing ourselves paid the Consideration

due unto us for this Assurance, by the said assured or *his* Assigns, at *four* *Cent*

IN WITNESS WHEREOF, WE the Assurers have subscribed our Names and Sums Assured in Philadelphia, the

*Twenty fifth* Day of *April* - One Thousand Seven Hundred and Forty *nine*

Memorandum, It is agreed by and between the Assured and Assurers, that in Case of any Loss above Five per Cent, there shall be no abatement. But that in Case of any Average Loss not exceeding Five Pounds per Cent, the Assurers, by Agreement, are not to pay or allow any Thing towards such Loss.

It is further agreed, That if any Dispute shall arise, relating to a Loss on this POLICY, it shall be referred to two indifferent Persons, one to be chosen by the Assured, the other by the Assurer or Assurers, who shall have full Power to adjust the same; but in Case they cannot agree, then such two Persons shall choose a Third, and any two of them agreeing, shall be Obligatory to both Parties.

It is agreed also between the Assured and Assurers, That in Case of Loss the Money shall not be paid until the Expiration of three Months after Proof is made of the same.

*£200 Two Hundred Pounds John Brifflin*

*£100 One Hundred Pounds Sam: McCall Junr*

*£50 fifty Pounds Augt: Hicks*

*£100 One Hundred Pounds for arch: McCall - Sam: McCall Junr*





*It is agreed also between the Assured and Assurers, That in Case of Loss the Money shall not be paid until the Expiration of three Months after Proof is made of the same.*

£150.	One Hundred and Fifty Pounds,	.	.	.	John Meas.
£100.	One Hundred Pounds,	.	.	.	Thomas Crosby.
£150.	One Hundred and Fifty Pounds,	.	.	.	Jam's Pemberton.
£300.					
100.					

[ENDORSEMENT.]	POLICY.	Ship White Oak, Chs. Lyons, Ma'r, from Barbadoes to Philadelphia. Abel James, for Wm. Fisher.	£400 Vesi, 3½ pC.—£14 — Policy, . . . 5	£14 5
				Rec'd above Contents. Jos. Saunders.
				Reg'd in Book B, fol. 192. per Jos. Saunders.

Joseph Saunders, removing in 1752 "from his late store on Reese Meredith's, or Carpenter's, wharf to Water Street at the corner going down to Chestnut Street wharf," Thomas Wharton occupied the premises so vacated, and advertised himself in the *Pennsylvania Gazette* of May 7, 1752, as being

On Carpenter's wharf where Joseph Saunders lately kept.  
N. B.—The Insurance Office is there as formerly.

Thereupon notice was given by advertisement in the *Pennsylvania Journal*, June 25, that the "INSURANCE OFFICE for Shipping . . . is kept by Joseph Saunders at his House . . . near the Queen's Head, in Water Street."

"Mr. Wharton's business grew slowly, for a policy of his to Thomas Riché, underwritten by John Baynton on Goods from Philadelphia to Antigua, at ten per cent., dated 25 October, 1756, is registered in his 'Book B, fol. 64.'"\* Hostilities between England and France had again begun.

Walter Shee opened an office for the insurance of "Ships and Merchandize," in 1756, on Front street at the corner of Chestnut street.

\* *History of the Insurance Company of North America*, 20.

## CHAPTER III.

*Effect of the "Seven Years' War"—Influence of the London Lloyd's—Thomas Willing and Company—Philadelphia Underwriting of Maryland Vessels—Risk of War and Seizures—Bottomry Bill and Bond—Anthony Van Dam, of New York—Wharves and Ferries—Philadelphia Underwriters' Agreement, 1762—William Bradford and the London Coffee House—Insurance Office of Kidd and Bradford—John Kidd and John Nixon—As to Insured Interest of Witness—The Insurance on Cargo of Ship Marquis of Granby—Average Loss on Sale of Recaptured Vessel—Pilotage Regulation—Propositions of Philadelphia Underwriters, 1766—The Maria Francina Case—Insurance Brokers—Imports and Exports—Non-Importation Agreements—Clearances—"The New Lloyds List"—The Closing of the Port of Boston and Philadelphia General Committee of Correspondence thereon—Beginning of the War of the Revolution—Chevaux-de-Frise in the Delaware and Losses thereby—Decline of Exports—Policies on War Risks—Insurance of Premium—Fee to Office-keepers—"Warranted Free of Capture by the English"—Philadelphia Privateers—Marine Insurance during the Revolution—London Premium on Goods at New York—Value of American Captures—Congressional Embargo on Exports—After the Evacuation of the City by the British Forces—Isaac Wharton and Samuel Lewis Wharton—No Legal Possession by Illegal Capture—End of the Revolutionary War. (1757-1783.)*

THE seven years' war between England and France tended more than previous conflicts to repress the expanding commerce of the city. Exportation of provisions and military stores to French ports was prohibited in 1756-7, but as a premium question the ratio of advance was in greater proportion than the diminution of the shipping, and as the merchant underwriter of the city gained confidence by experience and established his ability to secure the insured, he realized that the existence of danger is the opportunity of adventure. But London underwriting on Philadelphia maritime hazards remained in the ascendancy. The companies at Lloyd's subscription and shipping intelligence rooms in London, where underwriters, ship-owners, merchants and brokers met, had tended to soften asperities between insurer and insured, and added more prestige to the London insurers. Besides this, the individual personal capital in the city which could or would be risked in insurance ventures, was far below the demands of the shipments from the city.\* Forty vessels with full cargoes were detained in port by Lord Loudoun's embargo early in June, 1757, but the embargo was raised at the end of June, after a fleet had put to sea. By articles of agreement of date of October 8, 1757,

\* "Other Parts" were also to be supplied. Mr. Montgomery (Hist. Ins. Co. N. A., 19) says and quotes as follows: "It was to Mr. Saunders's office that Colonel Thomas White refers in the following letter to his friend Mr. Thomas Harrison, of Baltimore County, written 24 April, 1755: 'On my coming to Town I went to ye assurance office and ordered yr Policies to be made out, but could get only ye 75£ on ye Brig Philip & James underwrit; they having already fully ventured on ye other vessel; the reason is, that very few will underwrite on a vessel from Maryland. Mr. Meredith has signed for ye above 75£ in Goods at 3½ p ct so yt I paid £2. 17. 6.'"

Thomas Willing, Attwood Shute, Charles Stedman, Alexander Stedman, John Kidd and William Coxe associated "to establish a Company for insuring Ships, Vessels, Goods and Merchandize on reasonable Terms, under the title Thomas Willing and Company," because "the Insurance of Vessels and Merchandize has proved a great Encouragement to Trade and that by Companies is most secure to the Insured." Such associating was probably first suggested by John Kidd. The several members of the co-partnership had equal interest. Thomas Willing was to be the cashier, and the books were to be kept at his counting-house—not more than £600 were to be written on one risk, nor less than £50; "lawfull Money of Pennsylvania."\* The combination was to continue one year, and new articles of agreement were made October, 20, 1758, for another twelvemonth, Robert Morris taking the place of Attwood Shute.

With underwriting upon a war footing, and cargoes possibly more or less illicit or contraband, a policy of date of July 16, 1759, to Thomas Riché, Walter Shee, broker, subscribed by four underwriters, was for goods on brig Ann, from New York to Monte Christo, to and from thence to New York, with liberty to go to St. Croix—also liberty to touch at New London, at rate of 22½ per cent. The underwriters were as follows:—

£200.	Two Hundred Pounds, . . . . .	Scott & McMichael.
£200.	Two Hundred Pounds, . . . . .	{ George Smith & John Bell.
£150.	One Hundred & fifty Pounds, . . . . .	Reed & Pettit.
£100.	One Hundred Pounds, . . . . .	Robinson & Reynolds.

A special memorandum written on the policy was in the following terms:

It is also agreed that besides the Risques usually underwritten by this Policy the Assurers take upon themselves the additional ones of English Men of War, Privateers and Letters of Marque, and should the Vessel be taken by the English and carried into port or Ports the Assurers agree and promise to pay to the Assured all Losses and Damages whatever that they the Assured may sustain thereby; Seizures in New York and New London by Custom House Officers only excepted.

There was some taking of Philadelphia risks by New York underwriters, and September 13, 1759, the following broker's advertisement appeared in the Pennsylvania Gazette, dated New York, August 21, 1759:—

*The New York Insurance Office* Is opened at the House of the Widow *Smith*, adjoining the Merchants' Coffee House; where all Risks are underwrote at moderate Premiums. Constant attendance will be given from the Hours of Eleven to One in the Forenoon, and from Six to Eight in the Evening, by

ANTHONY VAN DAM,  
*Clerk of the Office.*

Anthony Van Dam was subsequently one of the wardens of the port of New York.

In 1760 Joseph Saunders had his office "higher up Chestnut St." [than his immediately preceding location at the corner of Chestnut and Water streets], "and next door but one to John Reily's"; and John Reily had, years before this, in addition to selling New England and Jamaica rum, molasses, sugars, etc., drawn, as public scrivener, deeds, mortgages, charter parties, bottomry bills and other instruments of writing; and the bottomry bills were, according to circumstances, more or less of a modification of this one, with bond:—

\* £1 = \$2.66⅔; and, conversely, one dollar equalled 7s. 6d., Pennsylvania money of account.



*To all People* to whom these Presents shall Concern: I, Thomas Cooper, of Bristoll in England, Part-Owner and Master of the Ship called the Elizabeth and Ann, of the Burthen of Two Hundred Tuns, now riding in the River of Delaware and bound for Barbadoes in the West Indies, and thence to Bristoll in England, send Greeting, Whereas I the said Thomas Cooper am at this Time necessitated to take up upon the Adventure of the said Ship called the Elizabeth and Ann the sum of One Hundred Pounds, Pennsylvania money, for setting forth the said Ship to Sea and for furnishing her with Provisions and making Repairs in order that the said Ship may proceed upon the said Voyage, which Sum of One Hundred Pounds T—— W——, of Philadelphia, Merchant, hath upon request lent unto me and supply'd me with at the rate of 30% for the said 100% during the said voyage. *Now know ye* that I the said Thomas Cooper do by these presents for me, my Executors and Administrators covenant and grant to and with the said T—— W—— that the said Ship shall with the first fair Wind after the . . . Day of this instant depart from the said River of Delaware, and shall, as Wind and Weather shall serve, proceed to Barbadoes in the West Indies, and having there tarry'd, until duly loaden, or sooner despatched, shall proceed from thence, and as Wind and Weather shall serve directly sail back to the River of Avon or Port of Bristoll to finish and end her said Voyage. *And* I the said Thomas Cooper, in consideration of the said Sum of 100% to me in Hand paid by the said T—— W—— at and before the Sealing and Delivery of these Presents, do hereby bind myself, my Heirs, Executors and Administrators, my Goods and Chattels and particularly the said Ship called the Elizabeth and Ann, with the Freight, Tackle and Apparel of the Same, to pay unto the said T—— W—— his Executors, Administrators or Assigns the Sum of 130% of Pennsylvania money in like value of lawful British money within one and twenty Days next after the Return and safe Arrival of the said Ship in the said River of Avon from the said intended Voyage. *And* I the said Thomas Cooper do also for me, my Executors and Administrators covenant and grant to and with the said T—— W—— his Executors and Administrators by these Presents, that I the said Thomas Cooper, at the Time of the Sealing and Delivery of these Presents, am true and lawful Part-Owner and Master of the said Ship, and have Power and Authority to charge and ingage the said Ship as aforesaid. And that the said Ship shall at all Times after the said Voyage be liable and chargeable for the Payment of the said One Hundred and Thirty Pounds according to the true Intent and Meaning of these Presents. *And lastly*, it is hereby declair'd and agreed by and between the said Parties to these Presents that in case the said Ship shall be lost, miscarry, or be cast away before her Arrival in the said River of Avon from the said intended Voyage, That then the said Payment of the said 130% shall not be demanded or be recoverable by the said T—— W—— his Executors and Administrators, but shall cease and determine, and the Loss thereof be wholly born and sustained by the said T—— W—— his Executors and Administrators. And that then and from thenceforth any Act, Matter and Thing herein contained on the Part and Behalf of the said Thomas Cooper shall be void; any Thing herein contained to the contrary notwithstanding.

*In Witness, &c.*

*Condition of Bond upon the Bill of Bottomry.*

The Condition of this Obligation is such that if the above-bound Thomas Cooper his Heirs, Executors and Administrators do and shall well and truly pay, or cause to be paid, unto the above-named T—— W—— his Executors, Administrators, or Assigns the full sum of 130%, in like value of lawful British money, on or before the end of One and Twenty Days after the first Return and safe Arrival of the Ship called the Elizabeth and Ann of the Burthen of Two Hundred Tuns, of which the said Thomas Cooper is Master, from her present intended Voyage to the said River of Avon; *and also*, shall and do, well and truly observe, perform, fulfil and keep all and every the Covenants, Grants, Articles and Agreements, which on his or their Parts and Behalves are or ought to be observed, performed, fulfilled; and kept, mention'd and contain'd, in a certain Writing or Bill of Bottomry of the Date above written, made by and from the said Thomas Cooper, Part-Owner of the said Ship unto the said T—— W—— in all Things according to the true Intent and Meaning of the said Bill of Bottomry or Adventure, that then, &c.

England was at war against Spain and France in 1762, causing another embargo; the losses were heavy, and the accounts between brokers and insurers had become to the latter matter of much annoyance. The underwriters meeting to concert a common arrangement for their own protection, the following agreement was entered into, February 12, 1762, by Henry Harrison, Peter Reeve, Amos Strettell, Conyngham & Nesbitt, Scott & McMichael, Samuel Purviance, John Wilcocks, Willing, Morris & Co., Samuel

Mifflin, Child & Stiles, Thomas and William Lightfoot, Abram Judah, James & Drinker, Samuel Oldman, John Mifflin, Reed & Pettit, and Aquila Jones:—

That the several Brokers in whose offices they shall hereafter subscribe Policies shall be accountable for all the Premiums arising from such subscriptions, being allowed thereon by us the underwriters a commission of one and a quarter per cent. for standing the Risques of such premiums, collecting and paying the same in the following manner:

1. That such Brokers shall settle each Underwriter's Account every three Months, and pay the Ballance due thereon exclusive of all premiums arising from Policies which have not been Subscribed above one month, and in the Intermediate time between such Settlements shall pay all losses due from us out of the Premiums on Policies which have been underwrote more than one month, or so far as such subscriptions extend.

That the three following Clauses shall be inserted in each Policy they may Subscribe after the first day of March next.

That the Broker shall be allowed half pr Cent. by the Assured on all Losses that shall happen on Policies underwrote after that date.

That the Underwriters shall pay but 98 pr Cent. for any losses that may happen on such Subscriptions.

On all Salt, Wheat, Indian Corn, Malt, Peas, & dried Fish stow'd in Bulk & Tobacco in Casks, no loss shall be paid on Policies Subscribed after the said first day of March covering an Interest on those Articles so stow'd unless it be a general Average or the Vessel Stranded; in either of which cases they will pay as on Other Goods.

William Bradford, of the Pennsylvania Journal, had, in 1754, opened the London Coffee House at the hip-roofed building south-west corner of High and Front streets, built by Charles Reed in 1702. It became a centre of news and mercantile and shipping intelligence; public sales of every kind were made there, including merchandise and ships, and here brokers met merchants to negotiate insurances. It was a resort of the active John Kidd, and in April, 1762, this announcement was made by advertisement in the Pennsylvania Journal:—

Philadelphia, April 8.

NOTICE is hereby given that on *Monday* next an INSURANCE OFFICE for INSURING Shipping and Merchandize will be opened at the *London Coffee House* where Risks in general will be underwrote, and all Persons may have their Insurance made with Care and Expedition by

JOHN KIDD  
and  
WILLIAM BRADFORD.

To this brokerage arrangement the title The Philadelphia Insurance Office was given by Messrs. Kidd and Bradford.

On the 20th of the same month articles of agreement for one year were entered into between John Kidd and John Nixon, "to establish a Company for Insurance of Vessels, Goods and Merchandize on reasonable Terms," as "the Insurance of Vessels and Merchandize has proved a great Encouragement to Trade, and that by Companies is most secure to the Insured." Each partner was to pay one-half of the losses, subscriptions to be in the name of John Nixon, and it was stipulated that "the said John Nixon shall not for any premium whatsoever underwrite more than two hundred pounds lawfull Money of Pennsylv: upon any One bottom or Risque whatsoever."

There was a suit in the Supreme Court this year on a policy (Thomas Wallace *vs.* Child and Stiles), a vessel having sprung a leak at sea and put into Providence through necessity:—



The *master of the ship* was produced by the Plaintiff as a witness to prove the bill of lading. . . . His admission was opposed, because the captain himself had goods on board which were insured, and payment was refused by the underwriters on his policy till this suit was determined, and therefore he was interested. But it was answered, that the master of the ship was the only person who can be supposed capable of giving a full account of the matter: and part of the defence in this case being, that the goods insured were innumerable commodities and therefore not lawful to be shipped from *Carolina to Madeira*; and the captain's goods insured, were not to be landed at *Madeira*, but at *London*, therefore the captain's insurance could not be affected by any determination in this case.

The Court ruled, that he should be examined on the *voir dire*, and if he said he was disinterested, he should be sworn in chief; which was done, and he was admitted a witness. (1 Dallas, 8.)

Thomas Riché was insured November 2, 1762, Kidd and Bradford, brokers, for £4,000 at £5 per cent. on the ship *Tyger*, from New Providence to Philadelphia, by 22 underwriters,\* as follows:—

£200.	Two Hundred Pounds,	. . . . .	Archib'd McCall.
£150.	One Hundred and fifty Pounds,	. . . . .	Conyngham & Nesbitt.
£200.	Two Hundred Pounds,	. . . . .	Charles Stedman & Co.
£100.	One Hundred Pounds,	. . . . .	Hen'y Harrison.
£100.	One Hundred Pounds,	. . . . .	Dan'l Rundle.
£400.	Four Hundred Pounds,	. . . . .	Baynton & Wharton.
£200.	Two Hundred Pounds,	. . . . .	Theo. & Rich'd Bache.
£300.	Three Hundred Pounds,	. . . . .	Scott & McMichael.
£300.	Three Hundred Pounds,	. . . . .	Scott & McMichael, for C. & Co.
£200.	Two Hundred Pounds,	. . . . .	Reed & Pettit.
£200.	Two Hundred Pounds,	. . . . .	Daniel Clark.
£200.	Two Hundred Pounds,	. . . . .	John Mifflin.
£300.	Three Hundred Pounds,	. . . . .	Willing, Morris & Co.
£150.	One Hundred and fifty Pounds,	. . . . .	John Nixon.
£50.	Fifty Pounds,	. . . . .	Aquilla Jones.
£150.	One Hundred and fifty Pounds,	. . . . .	Mifflin & Massey.
£100.	One Hundred Pounds,	. . . . .	Geo. Bryan.
£100.	One Hundred Pounds,	. . . . .	Charles Jones.
£200.	Two Hundred Pounds,	. . . . .	John Wilcocks.
£300.	Three Hundred Pounds,	. . . . .	James & Drinkar.
£50.	Fifty Pounds,	. . . . .	Townsend White.
£50.	Fifty Pounds,	. . . . .	Baynton & Wharton.

Anthony Van Dam, forenamed, was in business correspondence with William Bradford, conducting the brokerage of Kidd and Bradford; the following letter and statement pertains to insurance obtained in New York:†

New York, Decem 9, 1762.

Gent'n:

I have the directions by post from Mr. Bradford to have an insurance effected on the *Marquis of Granby* from Providence; an account thereof is underwritten. I applied in the different Offices but could not get it lower. As it is not for yourselves you may add a Commission or let it stand as it is charg'd—it being done by the old Office, which shall leave with you to determine.

Your most Hhble Serv't,

ANTHO. VAN DAM.

\* "The Underwriters [at Kidd & Bradford's] were men of the first grade in the commerce of old Philadelphia,—Thomas Willing, Robert Morris, Archibald McCall, John Nixon, John Morton, John Ross, David Franks, Anthony Stocker, Mathias Aspden, George Emlen, Blair McClenachan, Conyngham & Nesbitt, with other persons; some whose names became subsequently and will forever remain, names of the Nation, and others, who if not so widely known were—not less than those most known—respected and respected deservedly in the city of their residence. The parties insured were merchants of no less character, though not always like the parties assuring men of old and stable opulence." (An Old Philadelphian; Colonel William Bradford, The Patriot Printer of 1776. Sketches of his Life, by John William Wallace. Philadelphia, 1884, 78.)

The merchants of the city were, however, in alternation, for accommodation of one another, insurers and insured.

† Bradford papers (MSS) in Pennsylvania Historical Society, as arranged, II, 140.



Premium on the Ship Marquis of Granby—Williams, master, from new Providence to Philadelphia £800 on ninety five hhds of Molasses, vallued at one Thousand pounds to abate  $2\frac{1}{2}$  pr Ct. in case of Loss, Brokers fees included, @ 6 pr Cent.

Jno Alsop.	400 @ 6 pr Ct.,	. . . . .	£24
James Jauncey.	400 6 pr Ct.,	. . . . .	24
	Policy,	. . . . .	5
			£48 5
Commiss'n $\frac{1}{2}$ pr Ct.*	. . . . .		4
			£52 5

By this year there were 66 private wharves, such being constructed by square casements of logs, along the Delaware front of the city and liberties, between Noble street and Weccacoe lane—principally wood wharves at the northern and southern points of the line; communication between Philadelphia and Gloucester on the New Jersey side was kept up by three classes of ferry-boats, viz., the small passenger wherries, the horse boats for cattle and vehicle transportation, and the team boats propelled by horses walking in a circle—the last the principal craft.

The agreement between Kidd and Nixon was renewed at end of first year until April 20, 1764, and the competitors of Joseph Saunders were increasing in number.

An open policy had been underwritten by Amos Strettell on a vessel at and from Philadelphia to Jamaica. The vessel was taken by the enemy, thereby giving the insured the right to abandon; but the vessel being retaken, was carried into Jamaica, where, by agreement between the captain and the re-captors, without going into the Court of Admiralty the vessel was sold for about one-fourth of the sum insured, and bought by the captain for his employers. The latter claiming as for total loss, suit was instituted on the policy, and in the Supreme Court of Pennsylvania (1764),

Instructions from the Plaintiffs (Owners of the vessel insured) to the captain at the time of his sailing, sworn by the captain to be the only instructions he had, were given in evidence by the Plaintiffs, to prove they had given the captain no orders to buy the vessel on their account in case of a capture and re-capture, . . . . . [but they] afterwards acquiesced in the purchase. . . . . The sale was proved to be fair, and the Plaintiffs' counsel insisted that from the moment of the capture, there was a total loss, and cited divers cases to show, that if there be a capture, though it be not such a one as by the law of nations would change the property, yet it would be sufficient to charge underwriters with a total loss, and the assured may abandon. Beaws [Beawes] *Lex Mer.* 268. Conyngham [Cunningham] 225, 259, 300, 340.

On the part of the Defendant, it was insisted that he ought to pay no more on this policy than the actual loss sustained by the payment of salvage and other charges. That the captain having set up the vessel to sale without any orders of the Court of Admiralty, and purchased her himself in behalf of the owners, for about one-fourth of the sum insured, and this being acquiesced in by the Plaintiffs, there was no abandonment, and therefore but an average loss.

The Court gave a charge in favour of the Defendant; and the jury accordingly gave the Plaintiffs a verdict for so much only as they judged a compensation for salvage, charges, and loss of time, on account of the capture. (Story and Wharton *vs.* Amos Strettell, 1 Dallas, 13.)

An interval of peace began in 1764, and better pilotage regulation was urged in 1765, with complaints of loss of vessels and cargoes through many incompetent persons undertaking to guide vessels up and down the Delaware.

\* On sum insured.

Next year an act of assembly was passed, and under it Abel James, Robert Morris, John Nixon, Oswald Eve, Michael Hulings and Thomas Penrose were appointed wardens of the port.

With fall of rates for peace risks, and the influence of private practices outside of the "public" offices, the insurers found the premiums depreciating below the hazards, and nineteen underwriters agreed as follows:—

PHILADELPHIA, May 6th, 1766.

The Subscribers hereunto being Convinced by sad Experience that the premiums of Insurance have of late been Inadequate to the risques underwrote in this City, and fearing that the Consequence of their continuing so will be an entire loss of so necessary and usefull a Branch of Business, as most of the present Underwriters are determined to decline the pursuit of it, unless some regulations of the premiums are made and generally agreed to: Wherefor we and each of us promise to and agree with each other:

First.—That we will not subscribe our names to any Policy or Policies of Assurance at any less premium or Rates than are specified in the List annexed hereunto signed by the Brokers.

Secondly.—That we will not Cover or Assure any Vessel, freight, Goods, Wares or Merchandize in any other manner than by subscribing Policies of Assurance.

Thirdly.—That we will not employ or cause any Person to be employed to Subscribe Policies for our Account and risque at any Premiums less than mentioned in the annexed List.

Fourthly.—That if any Policies of Assurance are offered us in such Voyages as are not specified in this List every Person shall be at Liberty to use his own judgement in fixing the Premium on such risques.

Fifthly.—That if any Persons now in the practise of Underwriting in this City do refuse to sign and agree to these articles, We will not subscribe any Policy of Assurance to Cover any Ship, freight, or Goods the Property of such refusing underwriters, nor any other Policy which the said Refusing Underwriters may have signed.

Sixthly.—If any Person or Persons becoming Underwriters whilst this agreement is in Force and refuse to signe the same the foregoing Article shall be binding on us with respect to such Person or Persons.

Seventhly.—The Premiums now fixed to stand without alteration untill the last day of June next and on the first day of July a meeting of the Subscribers to be Called to make such alterations therein as the Season will then require.

Eighthly.—The premium fixed the first of July to stand untill the last day of October and on the first of November a new list of premiums from that time untill this Contract Expires to be fixed at a Meeting of the Subscribers then to be called and a Majority of those who do meet on the days appointed to determine in case of dispute.

Ninthly.—That we will Subscribe no Policies but what comes from an Office Keeper.

Lastly.—We do unanimously agree that the Several foregoing Articles shall be binding on us for One year from the date hereof, when we hope it will be found that the Trading Interest and our own have been mutually benefited by this contract.

But force of events set aside originating purpose. In so far as the new regulations did not conform to existing conditions they could not be maintained, and especially could merely arbitrary rating not be long enforced. One after another of the subscribers to the arrangement crossed off their names (Bradford papers, II, 105), until only these six remained as adhering:

Jno. Mifflin,  
Joseph Wharton,  
Samuel Mifflin,

Samuel and John Morton,  
David Franks,  
Peter Reeve.

Six names were not sufficiently erased to prevent their being deciphered one hundred and twenty years after they were written; these were:—

John Nixon,  
Henry Drinker,  
Conyngham and Nesbitt,

Philip Benezet,  
John Bringham,  
Ben. Allen.

The seven other gentlemen who, with the latter six, presumably "felt themselves too restricted by the agreement, and withdrew from it to join the general competition for insurances,"\* effectually blotted out their names.

The privateer was, as it were, an ever-recurring incident. In the previous war a vessel called the *Maria Francina* was taken by Philadelphia privateers "on the high seas near Monte Christo, in the Island of Hispaniola, in the West Indies, where the vessel was lying at anchor." The captured vessel with her cargo was carried to Rhode Island. Thereupon the question came up in the Supreme Court of Pennsylvania: Whether the action of Trover lies by owner of a ship and cargo taken on the high seas and carried into a United States port, property condemned there as prize, but on appeal condemnation reversed? The defendants were "Samuel Sweet, commander of a privateer, Abraham Whipple, James Potter and William Davis, commanders of vessels with Letters of Marque." (2 Dallas, 82.)

In 1768 Joseph Saunders was keeping an "Insurance Office for Shipping as usual." Thomas Wharton, whose policies had dropped the invocation "In the name of God," was now associated with his son under the firm title of Thomas and Isaac Wharton. The brothers, Walter and Bertles Shee were continuing their insurance office "at their store in Second street, nearly opposite the Golden Fleece Tavern," and William Bradford was continuing the business of the late firm of Kidd and Bradford. These were the chief "office keepers," but not all of the brokers; and with local facilities for underwriting increasing, there was still much insurance in London for residents of Philadelphia.

The importations from Great Britain into Philadelphia in 1768 amounted in value to £432,107, and exports to £59,406. Next year non-importation agreements were adopted at most of the ports in the British North American Colonies in resistance to Parliamentary taxation (duties on paper, glass, painters' colors, lead and tea), and the imports from Great Britain declined to £199,909, with the exports also falling off to £26,111. Still many foreign ports afforded markets for the products of the Province, and in 1771 there were cleared from Philadelphia 361 square-rigged vessels and 391 schooners and other vessels, with a total tonnage of 46,654; value of exportations £631,554 sterling—amount to Great Britain £31,615 against £728,744 of importations from Great Britain. Duties on forenamed articles having been repealed, non-importation restrictions weakened, until the exclusion of tea remained about the sole movement to maintain the principle "no taxation without representation." The ship *Polly*, Captain Ayres, leaving Gravesend, September 27, 1773, laden principally with tea and destined for Philadelphia, was stopped at Gloucester Point, N. J., and a public meeting held in the city resolved that "Captain Ayres shall carry back the tea immediately," which he did, with the rest of the cargo.

"The New Lloyds List" appeared at Bradford's London Coffee House in 1774, issued Tuesdays and Fridays—names of vessels and ports to which cleared, with dates of sailing, general maritime news and disasters, exchanges,

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\* Montgomery: Hist. Ins. Co. of N. A., 26.



values of annuities and stocks, etc., etc. News of the bill closing the port of Boston and transferring the custom house to Salem in 1774—the Parliamentary answer to the destruction of tea in Boston harbor—was received in the Colonies in May, on the 13th of the month. Boston sent Paul Revere to Philadelphia to bring about the coöperation of the two cities in the crisis. At a meeting held at the City Tavern, Philadelphia, May 20, the following general committee of correspondence on the subject was appointed: John Dickinson, William Smith, Edward Penington, Joseph Fox, John Nixon, John Maxwell Nesbitt, Samuel Howell, Thomas Mifflin, Joseph Reed, Thomas Wharton, Jr., Benjamin Marshall, Joseph Moulder, Thomas Barclay, George Clymer, Charles Thomson, Jeremiah Warder, Jr., John Cox, John Gibson and Thomas Penrose. At a meeting held June 18, on the expediency of taking the sense of the people of the Colonies as to appointing delegates to a general congress, Thomas Willing and John Dickinson presided. The first Continental Congress met in Carpenters' Hall, September 4, 1774.

At 5 o'clock in the afternoon of April 24, 1775, an express, by way of Trenton, came galloping up to the new City Tavern, Second street above Walnut, bringing news of the conflict at Lexington, and military enrollment and organization began. Four of the thirteen frigates which Congress had resolved to build were undertaken in Philadelphia, viz., the Washington, 32 guns; Randolph, 32 guns; Effingham, 28 guns, and Delaware, 24 guns. The river was defensively closed by a *chevaux-* [or *cheval*] *de-frise* after September 9, only a narrow, intricate channel being left open; two pilots knowing the secret of its passage had charge of guiding authorized vessels through this channel.\* The exportations to Great Britain amounted to £175,962 in 1775 against imports £1,366. December 13, 1775, a policy at Bradford's office, to Archibald McCall, on ship Minerva, Jamaica to Philadelphia, at 3 per cent. was subscribed as follows:—

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\* A loss by this obstruction gave rise to the English case, *Macdowell vs. Frazer*, Doug. 247. Park says (205), "The doctrine here meant to be advanced [vacating of policy by material mistake in representation] will be better understood and more fully illustrated by attention to the following case: It was an action on a policy of insurance on the Ship 'the Mary and Hannah, from New York to Philadelphia.' At the time when the insurance was made, which was in London on the 30th of January, the broker represented the situation of the ship to the underwriters as follows: 'The Mary and Hannah, a tight vessel, sailed with several armed Ships, and was seen safe in the Delaware on the 11th of December, by a Ship which arrived at New York.' In fact the ship was lost on the 9th of December by running against a *cheveau-de-frise*, placed across the river. The cause came on to be tried before Lord Mansfield, at Guildhall. The defence was founded on the misrepresentation as to the time when the ship was seen, and the representation and the day of loss being proved, the jury found for the defendant. A rule was obtained on the part of the plaintiff, calling upon the defendant to show cause why there should not be a new trial. After argument at the bar,

"Lord Mansfield said: The distinction between a warranty and a representation is perfectly well settled. A representation must be fair and true. It should be true as to all that the insured knows; and if he represents facts to the underwriter without knowing the truth, he takes the risk upon himself. But the difference between the fact as it turns out and as represented must be material. . . . There was no evidence of *actual fraud* in the present case, and no question of that sort seemed to be made. But there was a positive averment that the ship was seen in the Delaware on the 11th of December. The underwriter was deceived as to the fact, and entered upon the contract under that deception. There was no evidence at the time *when* she was seen in the Delaware, or in what condition; but suppose the fact had been explained in the manner now suggested, why did the insured take upon him to compute the day of the month on which she had been seen? Why did he not mention exactly what his information was and leave the underwriter to make the computation?"

Justices Willes, Ashurst and Buller concurred in the opinion that the representation concerning the day was material, and the rule for a new trial was discharged.

£150.	One hundred and fifty Pounds,	Bright and Pechin.
£100.	One hundred Pounds,	John Mease.
£100.	One hundred Pounds,	Hodge and Bayard.
£100.	One hundred Pounds,	Andrew Caldwell.
£100.	One hundred Pounds,	John Pringle.
£100.	One hundred Pounds,	Benj. Gibbs.
£200.	Two hundred Pounds,	David Franks.

Then, March 14, 1776, William Bell was insured on the schooner Success (Bradford papers, II, 137), St. Eustatia to Egg Harbour or Philadelphia, at "Forty Pounds per Cent., to return twenty per cent. if she arrives safe"; and "This Insurance is declared to be against all Risques." So the underwriters were placed between the contingency of 60 per cent. net loss and 20 per cent. net profit.\* There was this memorandum upon the policy:—

The Assured shall allow the Office Keeper or Broker Half per cent. for his trouble in collecting any Loss that may happen on this Policy paying the same in due time and registering it in the Office-Books.

The insurers were: £200 Blair McClenachan, £100 Thomas Yorke, two subscriptions of £100 each by John Pringle, and £100 each by Messrs. Gibbs, Bright & Pechin and Franks forenamed.

Again for William Bell, brigantine Enterprize was insured, New York to St. Eustatia or St. Croix, against all risques and "this Vessel is warranted clear of the Land"; £500 underwritten; £100 by Wm. Davis the rest by three forenamed underwriters, May 29, 1776; rate, "Thirty three Pounds six and Eight Pence" (B. papers, II, 138).

The formal declaration of severance from the British government was approaching, and so the war risk became, at least for a time, a matter beyond any practicable assumption of probability; therefore a policy issued to Willing

\* Cunningham, London, 1761 (335-340), illustrated the "Calculation of the Sum necessary to be insured so as to cover the Outset of the Adventurer" by proportional increment of insurance. Thus, abatement of 2 per cent. on payment of loss and 10 per cent. premium is 12 per cent. off, then as

£88 is to £100 so is £100 to £113, 12s. 8d. the Sum necessary to be insured to make good 100l.; and as 88l. is to 100l. so is 10l. to 11l. 7s. 3d., viz.:

	l.	s.	d.
The sum to be insured,	113	12	8
Deduct two per Cent. or reckon 98l. for 100l.,	2	5	5
The insurer pays in Case of a Loss,	111	7	3
Deduct Insurance [premium] on 113l. 12s. 8d.,	11	7	3
Remains the first Cost of the Adventure,	100	0	0

This being for insurance out, but the voyage being say double or out and home, add 11l. 7s. 3d. to 100l. at 10 per cent. premium, insurance home, and:

"As 88l. is to 10l. so is 111l. 7s. 3d. to 12l. 13s. 1d. Then add the 12l. 13s. 1d. Insurance home to the 11l. 7s. 3d. Insurance out, it makes 24l. 0s. 4d.—total Insurance [premium] to make good 100l. out and home; and the Sum necessary to be insured home will according to the foregoing Example amount to 126l. 10s. 11d., i. e. as 88l. is to 100l. so is 111l. 7s. 3d. to 126l. 10s. 11d.—making provision for two per cent., to be deducted as well as return of out and home premiums. With premium 40 per cent. the insurance out was as 58 : 100 :: 100l. : 172l. 8s. 3d., &c.

In 1779, Thomas Walters, of London, formulated the insurance of premium, and claimed as his own the particular application of the proportion that, for instance, the subject insured being of the value of 1000, and premium 12 per cent., the insurance should be in the proportion as 88 : 100 :: 1000 : 1136.37, and adding 2½ per cent. for placing the insurance, 2½ per cent. charge on recovered loss, etc., the insurable value for account of 1000 property value consigned to a commission merchant was 1183.25. Walters issued tables of such insurances, as well as the insurances without commission charge, at premiums ranging from 10s. or ½ guinea per cent. up to 60 guineas per cent.

Such bargaining for loss gave the loser his remuneration without cost, while the burden of indemnification was borne entirely by the non-losers—the loser being a gainer and the non-loser a loser.



and Morris and Company, June 3, 1776, ship Neptune, at and from Philadelphia to Lisbon and at and from thence to Hamburg, was "warranted free of Captures by the English and the Consequences thereof," and the rate was "Five Pounds per Cent." (B. papers, II, 139).

£200. Two hundred pounds, . . . . . John Pringle.

£200. Two hundred pounds, . . . . . Blair McClenachan.

Declaration of Independence being agreed upon and Congress passing resolutions, July 5, for the proclamation thereof and ordering, *inter alia*, that the sheriff of Philadelphia read or cause it to be read and proclaimed at the State-House in Philadelphia, on the eighth day of July it was read by John Nixon by appointment of the sheriff.

Privateers were soon fitted out; among those commissioned were the ship Speedwell, John M. Nesbitt & Co., owners, 10 guns, 25 men, Captain Thomas Bell; the sloop Friendship, John Wilcocks & Co., owners, 6 guns, 20 men, Captain Robert Collings, and the brig Industry, Blair McClenachan, owner, Captain Michael Barstow. The Pennsylvania State Navy Board was appointed March 13, 1777, William Bradford, chairman, and Bradford's insurance office was discontinued. "Others succeeded in the same line during the war,"\* but their record is blank, including the rates on privateers and blockade runners. The blockaders of the coast took many prizes, but did not altogether close the commerce of the port. Early in September the British army, under Lord Howe, was approaching the city, and the British commander sent a communication to Thomas Willing on the 25th to notify the people that there was no purpose to molest any one in person or property. Lord Cornwallis's division marched into Philadelphia on the 26th.

Other *chevaux-de-frise* had been added to the first one placed in the Delaware, and September 29 two regiments of the invading force under Lieut. Col. Sterling, moved upon the fort at Billington, which still protected the lower *chevaux-de-frise* that were an obstacle to the further progress of the British fleet. Col. William Bradford, with about one hundred city militia, had thrown himself into the Billington lines as Cornwallis was entering the city. The garrison of about 300 men withdrew upon the New Jersey militia failing to impede Sterling, Col. Bradford spiking such cannon as he was unable to remove and burning the barracks. Thereby Captain Hammond, of the fleet, was enabled to remove part of the lower *chevaux-de-frise*.

New York city being in possession of the enemy from August 26, 1776, (battle of Long Island) to the close of the war, intercourse with Great Britain was kept up by the royalists; and between New York and Philadelphia, during the British occupancy of Philadelphia, a like business intercourse was started. The Pennsylvania Packet, of Philadelphia (publication removed to Lancaster during the British occupancy), printed, May, 1778, extracts from letters taken from a vessel stranded at Cape Henlopen on the passage from New York to Philadelphia. The following was from letter of Robert Steel & Co., London, to Henry Warden, merchant, New York, January 7, 1778:—

\* Picture of Philadelphia (108), by James Mease, M. D.: Phila. 1811.



We do not so much as think of shipping anything to anybody till we see affairs wear a very different aspect; indeed, all our other friends with you positively forbid us to ship a single article until further orders, and seem much surprised they have any goods coming. Twelve Guineas per cent. premium is now given here to insure goods at New York from fire\* and the enemy till 1st of April next, and Twenty Guineas per cent. have been given to pay a loss, if our troops are not in possession of New York the first of this month, and we have every appearance of a French and Spanish war. . . . Nothing more will we think of shipping to any man til we have received considerable remittances and more favorable news.

[From the same to the same February 4, 1778.]

New York must be quite glutted with goods; notwithstanding several persons here [London] are shipping considerably for New York and Philadelphia which surprises us.

The following is from a letter of Thomas Buchanan & Co., New York, to Wm. Robb, merchant, Philadelphia, April 26, 1778:—

The *cheveaux de frize* in your river has cost our underwriters a large sum, and our friend Mr. Yates has been very unfortunate in the Delaware: In what manner the terms [of peace] will be treated by the Americans is yet uncertain, and makes it very dangerous to purchase American produce at the advanced prices.

Philadelphia privateers were now taking their captures into other ports. A letter from Charleston, S. C., dated April 11, 1778, says:—

. . . The Rattlesnake privateer of Philadelphia, Captain McCullough, has carried two prizes into Georgia, one with drygoods for the army at New York, the other a retaken vessel, with salt. She has likewise taken and sent in here a Jamaica schooner, and a brigantine from the Bay of Honduras.

A proposed address to the King about this time, from the House of Lords [defeated], said, among other things: "The value of the captures made by the Americans on the merchants of Great Britain amounts to upwards of £2,600,000."†

In Congress, June 8, 1778:

Whereas the exportation of provisions from these States hath occasioned much difficulty in procuring supplies for our armies, . . . Resolved, That an embargo be, and it is hereby laid to prohibit the exportation of provisions, from any of these United States from and after the 10th day of June instant, until the 15th day of November next, unless sooner revoked by Congress. . . .

The British army evacuated Philadelphia, June 18, 1778, and the commercial situation was again changed. There were advertised for sale by public vendue eight vessels, with their apparel and cargoes, at Egg Harbour, July 29. By the Pennsylvania Packet (now returned to the city) it was announced, July 18, that:—

Last Thursday was brought into this port the prize schooner Lord Drummond, from Antigua, laden with rum, sugar and limes. She was bound to this port, on supposition of the British forces being still in possession of it; mounts a number of wooden and some iron guns, and was taken near the Capes of the Delaware by Captain Rice, in an armed vessel belonging to this port.

Captured cargoes supplied the shops with a large part of their goods. In December, 1779, the Marshal of the Admiralty's Office advertised that "all persons indebted for Goods purchased of him at Public Auction are earnestly requested to make immediate payment that he may be enabled to settle with the Captors."

\* A great conflagration on the night the British troops first took their quarters in New York—493 buildings burned—one-eighth of the city—and the shipping threatened.

† Salem, Mass., fitted out more privateers than any other port of the confederated Colonies; the captures averaged, during the war, about three for each letter of marque, nine out of ten being brought into port in safety.

Between August 11 and 22, 1781, six Philadelphia merchant vessels (British captures) were taken into New York; also the letter-of-marque ship *Revolution*, from Philadelphia "for the Cape." Subsequently, numerous other captured Philadelphia privateers and merchantmen were taken into New York.

Isaac Wharton, insurance broker, "in 1781 associates with him his kinsman Samuel Lewis Wharton, and their Register of Policies begins this year."\*

This year a question of ownership by capture was finally adjudicated by the Federal Court of Appeals (prize cases), which involved the terms of the capitulation in 1778 of the island of Dominica, when recaptured by the French from the English.

The thirteenth of the articles of the capitulation stipulated "that the merchants and inhabitants of this island, included in the present capitulation, shall enjoy all the privileges of trade, and on the same conditions as are granted to the subjects of his Most Christian Majesty, throughout the extent of his dominions." The cargo of the *Resolution*, a Holland vessel bound for Amsterdam, was the product of Dominica, belonging to British subjects holding estates in the island, but non-residents at the time of capitulation. The property mentioned in the bills of lading was proved by the depositions which accompanied them to belong to British captulants, either personally or by attorney. The *Resolution* was captured by a British cruiser, and held for more than twenty-four hours, when recaptured by the *Ariel*, an American privateer. At the time of the capture, France, Spain and America were allies, and Holland was a neutral power. The principal question was whether the American captors had just ground for seizure and condemnation, the *Resolution* and her cargo being found in possession of British subjects, which was evidence of British property. In the Admiralty court the ship was acquitted and the cargo condemned. On the 7th of April, 1781, before this capture, Congress had passed an ordinance giving instructions to commanders of armed vessels, the third and fourth of which were as follows:—

3. You shall permit all neutral vessels freely to navigate on the high seas or coast of America, except such as are employed in carrying contraband goods, or soldiers, to the enemies of these United States.

4. You shall not seize or capture effects belonging to the subjects of the belligerent powers on board of neutral vessels, excepting contraband goods, &c.

It was finally decided that the decree below, with regard to the ship, be confirmed, and with regard to the cargo, that the same be reversed (with exceptions named), which excepted parts were condemned, with the use of the captors chargeable with the stipulated freight, the British captulant being held not to be in the same position as the British subject not a captulant. (2 Dallas, 1.)

April 16, 1783, the Supreme Executive Council of Pennsylvania proclaimed that hostilities had ceased—a preliminary treaty of peace having been signed.

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\* Montgomery: Hist. Ins. Co. N. A., 20.

## CHAPTER IV.

*Removal of War Conditions—Meeting at the Insurance Office of Crawford, Donaldson and Company—Philadelphia and New York commercially—Neutral Bottoms—Donaldson and Coxe—The Underwriting of Goods and Merchandise aboard the Sloop Betsy, 1783, and the Ship Union, 1784—Macpherson's Philadelphia Price Current—Marine Premiums—The Removal of the Chevaux-de-Frise—Standing Commercial Committee—Delaware Enactments—Pennsylvania Tariff—The Repeal and Restoration of the State Charter of the Bank of North America—Moorish Cruisers—Seizures by a British Brig—Commercial and Business Depression—Effects of Tonnage Duty on Philadelphia-built Vessels owned by Foreigners—The Ship Brothers; Policy Warranty not to cruise—Protest not duly attested—Allowances by Referees with Policy not Produced—Philadelphia Marine Policy, 1788—British and American Tonnage relatively at the Port of Philadelphia—Maritime Features of the new Federal Constitution—Constructive Deviation avoiding Policy—David Beveridge—"A marine list always open"—A Peace Risk and some Philadelphia Underwriters. (1783-1792.)*

THOUGH it was not until September 3, 1783, that the treaty of peace was formally signed at Paris, and the Colonies declared independent, peace was now deemed to be assured, and the underwriters began to arrange immediately as for a removal of the war conditions of commerce and marine insurance. A meeting was called of merchants and ship-owners of the city, to be held May 14, at 12 o'clock, at Crawford, Donaldson and Company's Insurance Office, "to take into Consideration some Proposals relative to the Pilotage in the River and Bay of Delaware," and notice was issued in June for "Proposals for removing the *Chevaux-de-Frise* from the Channel of the River Delaware to be received at the Warden's Office until the Fifteenth of July next."

Without any of the characteristics of competition existing between the two cities, New York had gained during the British occupancy upon the colonial commercial ascendancy of Philadelphia. A revival, however, now began in that "great trade"\* of Philadelphia which had obtained the special observation of Europe outside of the ranks of "economists and calculators." Freed in prospect from the entanglement of the Colonies with the European wars of the parent country, the ships of the independent States could plough the waters as craft not under the restriction of belligerence, with the perils besetting neutral bottoms yet in the future.

The office keepers, Donaldson & Coxe, became busy. One policy from this office, of date of November 29, 1783, was subscribed by the following underwriters, assuring John W. Stanley & Co., "upon all Kinds of lawful Goods

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\* Edmund Burke.



and Merchandise loaden or to be loaden aboard the good Sloop called the Betsy, at and from Philadelphia to Newbern," N. C., at  $2\frac{1}{2}$  per cent. (winter rate), the assured valuing their property on board such sloop at £2,000 without further proof.

£200.	Two hundred Pounds, . . . . .	Thos. Fitzsimons.
£100.	one hundred Pounds, . . . . .	Nixon & Foster.
£100.	One hundred Pounds, . . . . .	for John Nixon, Alex'r Foster.
£200.	Two hundred Pounds, . . . . .	Gurney & Smith.
£100.	One hundred Pounds, . . . . .	Gurney & Smith for Stephen Decatur.
£200.	Two hundred pounds, . . . . .	Wooddrop & Johns.
£100.	One hundred pounds, . . . . .	John Bringhurst.
£100.	One hundred pounds, . . . . .	John Bringhurst for John Mifflin.
£200.	Two hundred Pounds, . . . . .	Alex'r Nesbitt & Co.
£100.	one hundred pounds, . . . . .	Tench Coxe.
£100.	One hundred Pounds, . . . . .	Chas. Pettit.
£100.	One hundred pounds, . . . . .	Wm. Sykes.
£200.	Two hundred Pounds, . . . . .	Thos. Turner.
£200.	Two hundred Pounds, . . . . .	Stephen Tinker.

£2000.

[Endorsed. Reg. Book C, folio 201. Donnalldson & Coxe.]

And in all Cases of return Premium Five per Cent. on said Premium to be retained provided that in no Case it be under an Half per Cent. on the Sum subscribed.

By May 6, 1784, the registration by Donnalldson & Coxe had extended to "Book C, folio 269." At such date Wm. Sykes, for himself and John Wharton, had procured insurance on cargo of the Ship Union, from Philadelphia to Madeira, to the amount of £1,800, at  $2\frac{1}{2}$  per cent. (summer rate), viz. :—

£200.	Two hundred pounds, . . . . .	John Barclay.
£100.	One hundred pounds, . . . . .	Miller & Abercrombie.
£200.	Two hundred pounds, . . . . .	Conyngham, Nesbitt & Co.
£100.	One hundred pounds, . . . . .	Wooddrop & Johns.
£150.	One hundred and fifty pounds, . . . . .	King & Lowrey.
£150.	One hundred and fifty pounds, . . . . .	J. Rosse.
£150.	One hundred and fifty Pounds, . . . . .	James Hood.
£200.	Two hundred pounds, . . . . .	Haynes & Crawford.
[£200.	Two hundred pounds, . . . . .	William Bell. Cancelled.]
£ 50.	Fifty pounds, . . . . .	Wm. Allison and Wm. Miller.
[£300.	Three hundred Pounds, . . . . .	Miller & Emlen. Cancelled this 6th day of July, 1784.]

300.  
£1500.

£1800.

Captain John Macpherson, a former privateersman, had begun the publication, semi-monthly, in June, 1783, of the Philadelphia Price Current. This sheet, among its other mercantile contents, printed "Premiums of Insurance to and from the most considerable Places of Trade." Something of a temporary agreement as to rates of premium was made by the underwriters August 26, 1784. This was to continue until April 1, 1785. These rates were of the peaceful type, and as not being ruffled by war or "restraint" approached uniformity, excepting where character of craft might cause departures therefrom. These rates were published by the Price Current as follows. They were rather of mean than minimum degree, though designed to be the latter :—

From Philadelphia to		From Philadelphia to	
London,	} 3 per cent.	Barbadoes,	} 3½ per cent. to to Nov. 1, and from Nov. 1 to April 1, at 3 per cent.
Bristol,		Antigua,	
Liverpool,		St. Christopher's,	
Glasgow,		Grenada,	
Newry,		Dominico,	
Londonderry,		Nevis,	
Cork,		Montserrat,	
Belfast,		Martinico,	
Nantz,		Guadaloupe,	
L'Orient,		St. Eustatia,	
Cadiz,	} 3½ per cent.	St. Lucia,	} — 3½ per cent.
Dublin,		Quebec,	
Ostend,		Hallifax,	
Amsterdam,		Newfoundland,	
Hamburg,	} 3 per cent.	} 2½ per cent. to Nov. 1, and from Nov. 1 to April 1 3 per cent.	} 2½ per cent.
Lisbon,		Georgia,	
Faro,		South Carolina,	
Madeira,	} 3½ per cent.	North Carolina,	
Fyal,		Rhode Island,	
Teneriffe,	} 4 per cent. to Nov. 1, and from Nov. 1 to April 1 3 per cent. to Havanna, and 3½ per cent. to Jamaica or His- paniola.	Boston,	
One port in Jamaica,		New York,	} 2 per cent.
Hispaniola or Havanna,		One port in Vir- ginia or Mary- land,	

The premium from either of the above-mentioned ports, or islands, to Philadelphia, Maryland, Virginia, New York or Boston, to be the same as from Philadelphia to such port or island. From island to island in the West Indies, 1 per cent. until November 1—after that day, until April 1, at a ½ per cent. [advance] for each island. On a voyage to one port and back, and in one policy—the premium to be a ½ per cent. less than if the insurances were made in two policies—one out, and the other home.—On general policies to port and ports, or island and islands, a premium must be paid immediately to at least three ports or islands—with a condition of 1 per cent. to Nov. 1, and of a ½ per cent. from Nov. 1 to April 1 next, on West India risks—for every other port or island more than the said three, the vessel may proceed to.—Insurances by the month being deemed more dangerous than those by the voyage, it is agreed not to take them for less than six months certain, and not under 2 per cent. per month.—Single decked vessels being more unsafe than double decked ones the premium on a single decked vessel—unless on a coasting voyage, to be a ½ per cent. more than what is fixed above as the lowest rate of insurance on a double decked vessel.

The *chevaux-de-frise* were removed at the close of the summer of 1784. Accompanied with acknowledgment by city council of the “ingenuity exerted” in freeing the river from such obstructions, the following certificate was issued by the port wardens:—

PORT OF PHILADELPHIA, WARDENS-OFFICE,  
Oct. 26, 1784.

We do hereby certify that Messrs. Levi Hollingsworth and Arthur Donnaldson have not only removed and destroyed forty-nine *chevaux-de-frise*, but from the report of the pilots employed in sweeping the bed of the river, in the neighborhood of Mud-Island and Billingsport, we have every reason to believe that they have also removed all the frames that were obstructions, and that the navigation, in both the eastern and western channel, is rendered perfectly safe.

FRANCIS GURNEY,  
SAMUEL CALDWELL,  
GEORGE ORD,  
NATHANIEL FALCONER,  
JOHN HAZLEWOOD,  
JOSEPH BULLOCK.

At a meeting of merchants held January 14, 1785, the following were appointed a standing Commercial committee for the year on the mercantile affairs of the city:\*

John M. Nesbitt,  
Charles Pettit,  
Thomas Fitzsimons,  
Samuel Howell,  
John Nixon,  
John Wilcocks,

Isaac Hazlehurst,  
John Ross,  
Mordecai Lewis,  
Clement Biddle,  
George Clymer,  
Tench Coxe,

Richard Wells.

Benjamin Fuller, on Front street, and John Taylor on the same street, now kept offices as brokers and underwriters, but there was a lull in trade and much foreboding of evil. To the Congressional charter of the Bank of North America an act of incorporation had been added by the legislature of the State in 1782, augmenting the usefulness of the institution, but through the hostility of many country members this was repealed in 1785, after a hard struggle on the part of Robert Morris and others to avert the injury to the city and the State.† Official publication was made this year of a State tariff on goods.‡

In December there was news of Moorish cruisers threatening distress to the trade of the city with the Canaries and Madeira; but the most portentous sign of trouble ahead was intelligence received in March, 1786, that Captain Sawyer, of the cruising British brig Porcupine, had seized two American vessels, representing them as trading with false papers, and sending them into Montego bay for trial.

In an argument for the restoration of the State charter of the Bank of North America, the public situation was portrayed in these rather exaggerated colors:—

The sufferings from a past tender law, and the dread of a future one, have hitherto prevented the revival of credit, or the lending of money upon bonds and mortgages. Under the operation of this fear, the Bank of North America was instituted, and for several years it served as a substitute for private loans. Houses and ships were built, and improvements in manufactures of all kinds were carried on, by money borrowed occasionally at the bank. Commerce and arts flourished in Philadelphia, while they declined in every other city in America, from the want of that credit which the bank produced in our city. But since the fatal act of September last, what a change has taken place in the trade and business of our city! Our wharves look on a week day as they used to look on Sundays. Only a few houses are building, and still fewer contracted for; and not a ship on the stocks, the property of our merchants! The mischief done by the attack upon the bank centres ultimately upon the farmer and mechanic . . . besides day labourers of all kinds, who were supported by these tradesmen.

The shipwrights had also their special grievance, and remonstrances and petitions were presented to the General Assembly by these and others concerned in building and fitting out ships. It was set forth that—

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\* The Chamber of Commerce was not organized till 1801.

† In 1787 a new State charter was granted.

‡ The legislation of the State of Delaware at the time is thus summarized in a letter dated at Wilmington, February 10, 1786: "We have passed an act of incorporation for the President, Directors and Company of the Bank of North America—also, one vesting Congress with powers to regulate commerce—also, one for protecting vessels and the goods thereof which may be cast on shore on the coasts of this State—also, one declaring Wilmington and New Castle free ports for twenty-five years, subject, nevertheless, to federal regulations." Delaware did not continue the broad and productive policy here shown.



The business of ship-building has been carried on in this State to as great perfection, in respect to ships of a middling size, as in any age or country whatever; that the act lately passed, imposing a tonnage duty of one dollar per ton on all ships owned in part or in the whole by foreigners, is peculiarly injurious at this time, inasmuch as it discourages them in employing the petitioners in building ships for them, which has been and would continue to be a source of wealth to the country, if not checked; that permitting ships built in this State, let the owners be who they may, to enter this port freely, without paying foreign duties, would tend greatly to encourage foreigners to build their ships here; that if one-half the duty imposed on foreign cordage imported by foreigners, solely for the fitting out of ships built here by their orders, were to be withdrawn, it would add to such encouragement.

An action in Common Pleas showed the underwriter on the border line between amity and strife. The law contention was upon this warranty in a policy upon the ship *Brothers*: "Orders will be given that the Ship shall not cruise"—outward bound.

Shippen, president. . . . .

The captain is expressly directed not to touch at any port to the southward of *Philad*, lest the insurance should be endangered, but no mention is made of a cruise, except that the goods are to be sold for the purpose of fitting her out *for a cruise*.

It is, however, contended, that . . . . though no express direction is given *not to cruise*, yet such an implied direction *is* given, as will satisfy the words of the warranty.

The general intention of the owners, to be collected from the instructions, is sufficiently clear that they did not mean to give the captain a power to cruise. But what was the intention of the parties in making the warranty? Was it, that such orders should be given, as by construction or inference, should *show* that to be the intention of the owner? Or was it not that the captain should be directed in express terms not to cruise?

If the warranty had been that no orders should be given to cruise, or that he *should not be empowered by his orders to cruise*, the instructions would certainly have been a compliance with the warranty; but the warranty is not *negative*, that he should *not* have orders to cruise, but *positive* that he should *have orders not to cruise*. . . . The underwriters have stipulated that *more* should be done than would barely make the captain answerable for cruising. What their reasons were we can only conjecture; it might be supposed, that if the orders were silent as to his cruising, he might be tempted, by an apparent prospect of gain, to do that, which he would not dare to do in the face of express orders. It is well known, that there have been many captains who have not scrupled to break orders which were plain and express; but there are many more, who, when their orders are loose or silent, or discretionary, have run the risk of violating the spirit of them, and relied upon the generality or silence of their orders, to justify them to their owners.

In the present case, the condition of the vessel did not preclude the possibility of cruising. She mounted 16 guns, she had leave, by the terms of the policy, to call at Beaufort for men, she was intended to be a cruising vessel after the outward bound voyage was completed, and it might not be an unreasonable suspicion in the underwriters, that the captain, unless expressly restrained, might be tempted to cruise in the outward bound voyage. Whatever their reasons were, the underwriters had certainly a right to make it a part of their contract: without it they might have refused to insure at all, or they would perhaps have demanded a higher premium; and therefore being stipulated, the owners should have complied with it. . . . Judgment should be given for the Defendant. (*Ogden vs. Ash*, 1 Dallas, 162.)

A warranty by the insured had to be strictly complied with. Protest, duly attested, of the master describing storm and damage to his vessel, had to be made at the first port reached after the injury.

In a proceeding under a policy on the brig *La Catiche*, the circumstances of the case were these: The brig having sustained damage by a storm, the captain (part owner) being compelled to deviate, bore away for Cape François. Arriving there August 28, 1784, he delivered a *procès verbal* which had been drawn up at sea, after the storm, into the Admiralty, in order to obtain a survey of the vessel. This instrument was a relation of facts, but unattested by the oath of the captain, or of any of the seamen who had subscribed it as

witnesses. A copy of this, however, being afterwards brought to Philadelphia, the captain alone, December 4, 1784, went before a notary public of the city, and, in form of a protest, swore to the authenticity of the copy and the truth of its contents.

Supreme Court: . . . . . The question now before us is, in fact, whether a protest must be made in the first port at which the captain arrives after his vessel has been damaged? This is a matter of great importance, upon which little information can be derived from the books. . . . . It is the rule in *France*, that the protest shall be made within 24 hours after the arrival at the next port; and here, as well as in *England*, it ought to be accompanied by the attestation of a majority of the crew. See *Valines Ord. de Fr.*, 190; 1 *Magens*, 160. The reason is evidently to prevent any subsequent collusion; and we cannot but think that it is the safest as well as the most certain mode of proceeding. . . . . On the present occasion we are unanimous in rejecting the evidence. (*Richette vs. Stewart et al.*, 1 *Dallas*, 318.)\*

A cause having been referred, the report of the referees was set aside by the Supreme Court, for the reason that the referees had allowed interest on an unsettled account, and allowed a charge of premium and commission for making insurance without requiring the policy to be produced. (*Williams vs. Craig*, 1 *Dallas*, 314.)

The language of the sea writing was stable, like the laws of the sea, but predominant circumstance might introduce special stipulation, and the policy have something of local coloring. We cite this instance of the underwriting of 1788:—

WHEREAS *John Donmaldson* as well in *his* own Name, as for and in the Name and Names of all and every other Person or Persons, to whom the same doth, may or shall appertain, in part or in all, doth make Assurance, and causeth *himself* and them and every of them to be insured, lost or not lost, at and from *Port au Prince, in the Island of Hispaniola, to Philadelphia*, upon the *Body, Tackle, Apparel* and other *Furniture* of the good *Sloop* called the *Newbury*, of the Burden of . . . Tons, or thereabouts, whereof is Master under GOD, for this present Voyage *Daniel Richards* or whosoever else shall go for Master in the said Ship, or by whatsoever other Name or Names the said Ship, or the Master thereof, is or shall be named or called, beginning the Adventure upon the said Ship, Tackle, Apparel, etc., at and from *Port au Prince* aforesaid, and so shall continue and endure until the said Ship be safely arrived at *Philadelphia* aforesaid, and until she be moored Twenty and Four Hours in good Safety. And it shall and may be lawful for the said Ship in her Voyage to proceed and sail to, touch and stay in any Ports or Places, if thereunto obliged by Stress of Weather, or other unavoidable accident, without Prejudice to this Insurance. The said Ship, Tackle, etc., for so much as it concerns the Assured by Agreement made between the Assured and the Assurers in this POLICY, are and shall be valued at *Five hundred Pounds*, without any further Account to be given by the Assured to the Assurers, or any of them for the same. Touching the Adventures and Perils, which we the Assurers are contented to bear, and to take upon us in this Voyage, they are, of the *Seas, Men of War, Fires, Enemies, Pirates, Rovers, Thieves, Jettisons, Letters of Mart, and Counter Mart, Surprisals, Taking at Sea, Arrests, Restraints and Detainments*, of all *Kings, Princes or People, of what Nation, Condition or Quality soever, Barratry of the Master and Mariners*, and all other Perils, Losses and Misfortunes, that have or shall come to the Hurt, Detriment or Damage of the said Ship, or Part thereof. And in case of any Loss or Misfortunes, it shall be lawful to and for the Assured, *his* Factors, Servants and Assigns, to sue, labour and travel for, in and about the Defence, Safeguard and Recovery of the said Ship, or any Part thereof, without Prejudice to this Insurance, to the Charges whereof we the Assurers will contribute, each one according to the Rate and Quantity of his Sum herein insured. And it is agreed by us the Assurers, that this Writing or Policy of Insurance shall be of as much Force and Effect as the surest Writing or Policy of Assurance heretofore made in any of the UNITED STATES, or elsewhere. And so we the Assurers are contented, and do hereby promise and bind ourselves, each one for his own Part, our Heirs, Executors and Goods, to the

\* Protest of a captain of a vessel must be made at the first port, if practicable; if not then practicable, at the next port where it is practicable. (*Boyce vs. Moore*, 2 *Dallas*, 196.) January term, 1793, Supreme Court of Pennsylvania.



Assured, *his* Executors, Administrators and Assigns, for the true Performance of the Premises, confessing ourselves paid the Consideration due unto us for the Assurance, by the said Assured, or *his* Assigns, at and after the Rate of

*Three pr Cent—*

And in case of Loss, the Assured is to abate *Two Pounds per Cent.*

IN WITNESS WHEREOF, WE the Assurers have subscribed our Names and Sums assured, in *Philadelphia*, the *Third* day of *December*, One Thousand Seven Hundred and Eighty-Eight. —

Memorandum. *It is agreed by and between the Assured and Assurers, that no Loss shall be paid on any Average under Five Pounds per Cent. unless the said Average be general. And in case of Loss, the Assured shall allow the Office-keeper or Broker One Half per Cent. for his Trouble in collecting and paying the same in due Time, and registering it in his Office.*

*It is further agreed, that if any Dispute shall arise, relating to a Loss on this POLICY, it shall be referred to two indifferent Persons, one to be chosen by the Assured, the other by the Assurer or Assurers, who shall have full power to adjust the same; but in case they cannot agree, then such two Persons shall chuse a Third; and any Two of them agreeing, shall be obligatory to both parties.*

*If the above Vessel, after a regular Survey, should be condemned for being unsound or rotten, the Underwriters shall not be bound to pay their Subscriptions on this Policy.*

*It is agreed also between the Assured and the Assurers, That in case of Loss, the Money shall be paid in three Months after Proof made of the same. And in all cases of Return Premium, Five per cent. on said Premium to be retained, provided that in no case it be under an Half per Cent. on the Sum subscribed.*

*It is mutually agreed by the Parties to this Policy, that no Part of the Premium shall be returned or abated, on account of any Deviation which shall be made by the Owners or their Factors, from the present Voyage.*

*Warranted free from any Charge, Damage, or Loss, which may arise in consequence of Seizure or Detention of the Property for, or on account of illicit or prohibited Trade.\**

£100.	One hundred Pounds, . . . . .	Thos. Fitzsimons.
£100.	One hundred Pounds, . . . . .	Stewart & Nesbitt.
£100.	One hundred Pounds, . . . . .	Haynes & Crawford.
£300.		

[ENDORSEMENT.]	POLICY.	JOHN DONNALDSON,	On V. £300 @ 3 pr Ct., . . . . . £9 10	Reg'd Book D, folio 210 for John Donaldson.
	On Sloop Newbury, Daniel Richards, M'r at and from Port au Prince to Philadelphia.		Policy, . . . . . £9 10	John Campbell, Jr.

Apprehensions and doleful views and impeding legislation did not altogether keep back the commerce of the city, but the carrying foreign trade was of this character:—

In 1788 and 1789, according to the statements of P. Bond, the late British consul general, the tonnage of the vessels belonging to the inhabitants of the British dominions,

\* This clause of warranty was introduced to prevent disputes concerning losses by seizure for breach of the revenue laws of foreign nations.



then employed in the port of Philadelphia in the foreign trade, was full four-fifths of all the vessels so employed; he stated it as follows:—

	1788. Tons.	1789. Tons.
British, . . . . .	23,004	29,372
American, . . . . .	28,028	37,728

So that the tonnage owned by the inhabitants of Great Britain, employed in the port of Philadelphia in 1788 and 1789, amounted to within one-fifth of the tonnage belonging to all the citizens of the thirteen United States so employed. (Seybert's Statistical Annals of the United States, 291: Philadelphia, 1818.)

The constitution of the United States went into effect in 1789. Commercial defects in the Articles of Confederation adopted in 1778 had been shown by trial. Some States levied duties upon merchandise at the expense of their neighbors. One port had free trade, while there was restriction of imports at an adjacent port. The new constitution gave Congress power to lay and collect "duties, imposts and excises," uniform throughout the United States; to "regulate commerce with foreign nations and among the several States"; to "grant letters of marque and reprisal [with express State exclusion therefrom] and make rules concerning captures on land and water"; forbade the laying of tax or duty on "articles exported from any State," though permitting, with consent of Congress, such State "duties on imports or exports" as were "absolutely necessary for executing" the inspection laws of the State; "nor shall vessels bound to or from one State be obliged to enter, clear or pay duties in another" was further prohibition, and that "no State shall, without the consent of Congress, lay any duty on tonnage," was also decreed. Three of the delegates to the constitutional convention from Pennsylvania were personal underwriters.

As to American vessels in 1790, the sea was free from the political hazards, and the United States were to become the great ocean carrier of the world, with the causes augmenting the sphere of transportation enhancing the risk of the transporter. May 12, this year, 179 vessels were in port, of these classes: Ships 35, brigs 34, snows 4, schooners 25, sloops 61. Fifteen new ships and brigs were in progress at the ship-building yards, in addition to schooners and sloops.

There was a question at the sittings of the Supreme Court, November, 1791, as to whether a meritorious act at sea was constructively barratry or deviation, and so avoiding the policy. The ship *America*, from Philadelphia to, at and from Fayal, William Keeler, master, had been wrecked at the point of outward destination by a storm and totally lost, January 31, 1786, the ship having arrived at Fayal, December 23, preceding. The jury found a special verdict, stating, *inter alia*, that about three weeks after Keeler had so arrived at Fayal, he, at the request of a Captain Barnes, on the suggestion of one Duncan Ross, did, with the ship *America*, sail in pursuit of a certain sloop called the *Fly*, whereof the said Barnes was master, which said sloop had been run away with by the seamen belonging to her; and that returning from such pursuit, within eight days after she had sailed from Fayal as aforesaid, January 31, 1786, the ship was, by storm and tempest, wrecked upon the island of Fayal and totally lost. "And the jurors further find, that the said W. Keeler, by his agreement with

the said Captain Barnes, was to have received, as a compensation for his services in going with the ship *America* aforesaid, in pursuit of the said sloop, the sum of £100 sterling; and that in going from the island of Fayal aforesaid, he had no view of, and did not intend, any exclusive profit or advantage to himself, but did intend that the benefit and advantage to be derived therefrom should be for the owners of the said ship and himself. And whether the law be for the plaintiff, etc., etc., they submit, etc., etc."

After argument at January term, 1792:—

McKean, C. J.: . . . . .

We do not discover in this case any marks of criminal misbehaviour, but the judgment must be for the defendants.

Shippen, Yates and Bradford, JJ., concurred, the last named saying at the close:—

Here was an act of piracy committed in open day. The pursuit of the *Fly* was, in itself, a meritorious action; and if Keeler had been the owner of the *America*, he would have been applauded for it. The whole mercantile world seems interested in the suppression of such villany. Keeler is solicited to employ his vessel; he stipulates for a compensation, and though he expected to receive a part of it himself, yet that must have depended upon the pleasure of his owners. It would have been *their* money, earned by *their* ship; yet the captain might honestly expect that they would approve his conduct and reward his exertions. It was a sudden thing; we cannot say that he knew of this insurance, or that he was aware of the consequences of his deviation. Here are no marks of knavery, or even of a disregard to his owners' interests. It was an imprudence, and he is answerable for it to his owners; but the insurers are discharged. (*Hood's Executors vs. Nesbitt et al.*, 2 Dallas, 137.)

David Beveridge was now an office-keeper, and Vincent M. Pelosi relinquishing the keeping of the Coffee-house at Water and Market streets, and commencing at the same location the business of Exchange and Insurance Broker, announced, March, 1792, that he would have "a marine list always open to those favoring him with their custom."

There were peace and order in the risk of this voyage from industrious, skilful and prosperous Newry, as underwritten through the office of David Beveridge, viz.:—

[Wm. Bell assured on Body, &c. of ship *Canton* from Newry in Ireland to Philad'a. Rate 2½ per cent. on £2000 for ⅔ of said ship, as valued. Date, July 2, 1792.]

£200.	Two Hundred pounds,	. . . . .	James Crawford.
£100.	One hundred Pounds,	. . . . .	for Arch'd McCall, Peter McCall.
£200.	Two hundred pounds,	. . . . .	William Morris & Swanwick.
£100.	One hundred pounds,	. . . . .	J. Swanwick for J. B. Nickolls.
£100.	One hundred Pounds,	. . . . .	Geo. Emlen.
£300.	Three hundred pounds,	. . . . .	John Wilcocks.
£200.	Two Hundred Pounds,	. . . . .	Henry Pratt.
£100.	one hundred pounds,	. . . . .	Joseph Brown.
£200.	two hundred pounds,	. . . . .	Isaac Wikoff.
£200.	two hundred pounds,	. . . . .	Andrew Clow & Co.
£200.	Two hundred pounds,	. . . . .	Gurney & Smith.
£100.	one hundred pounds,	. . . . .	David Peoples.
£200.	Two hundred pounds,	. . . . .	John Mullowny.
£200.	Two hundred pounds,	. . . . .	Robert Smith.

£2000.

[Endorsed. Registered Book A, folio 169. David Beveridge.]

## CHAPTER V.

*A Tontine Fund—Samuel Blodget, Jr.—Proposal of a General Insurance Company—Organization of the Association called The Insurance Company of North America and its First Underwriting—Ebenezer Hazard—The Warranty of American Property—A First Year's Account—Arrivals at the Port and Exports therefrom—Europe in Arms—President Washington's Proclamation of Neutrality—French Depredations upon American Commerce—Letter of Thomas Jefferson, Secretary of State, to the Merchants of Philadelphia, and the Reply thereto—British Order in Council, 1793, and Captures thereupon—Proposition to incorporate the Subscribers to the Insurance Company of North America, the Advocacy of it and the Antagonism to it—The Delaware Day Dream—Report of Legislative Committee on Insurance Corporations and Personal Underwriters—Thoughts of an "Enemy to Unnecessary Corporations"—Incorporation of the President and Directors of the Insurance Company of North America and the Insurance Company of the State of Pennsylvania; the Corporators of the Latter and its Organization—Charter Asset Regulations—A Question of Total or Average Loss—A Respondentia Loan—Commercial Usage and Premium Account for Goods shipped—Communication of Edmund Randolph, Secretary of State, on Enforcement of American Neutrality Rights—Conviction of Etienne Guinet for Violation of the Neutrality Laws of the United States—Jay's Treaty and British Remuneration for Spoliations; French Vengeance—The Corvette Cassius—Marine Policy 2639 of the Insurance Company of North America—Arrivals and Clearances—Exports and Shipbuilding, 1795—The Range of Jeopardy—Illicit and Prohibited Trade—The Instructions to the French Privateer Phénix, and American Recreants—The Capture and Condemnation of the Mount Vernon—French and Spanish Captures after the League of San Ildefonso—The Personal Underwriters insuring upon the Brig Malabar "against all Risks"—The Nationality of the Brig Salmon and its Cargo—The Insurance upon the Schooner Illinois—Missing and Otherwise—The Decree of the French Directory, 1798—Upholding President Adams—Authorization of cruising against French Privateers by Armed Vessels of the United States—Decision of the Insurance Company of North America as to French Ports—Suspension of Commerce with France—Capture of French Privateers—The Yellow Fever in Philadelphia legally modifying the Rule as to Abandonment—Salvage for Recapture—Premium under Time Policy proportioned "as Interest shall appear"—Insuring against what happened at Port de Paix—A Risk as run and as understood—Policy as Pro Rata on Additional Insurance—Treaty between the United States and France, 1800; Sacrifice of American Claimants—As to the Risk of Seizure in Port—Meeting of Sufferers by French Spoliations—The Equities and Obligations under Assignment of Policy—First Decade of the Marine Branch of the Insurance Company of North America. (1792-1802.)*

## MARCH 19, 1792:

The Universal Tontine is opened this day at the office of Messrs. Hazard & Addoms, at the corner of Chestnut & Third streets, for the purpose of forming a Society, by a Subscription on Lives to continue associated for the period of 21 years, . . . . . being partially calculated to favor the less opulent citizens. . . . . Subscriptions will be received from 10 to 1 o'clock daily until the whole number is subscribed according to the articles.



So in part ran an advertisement. The tontine principle—increase of invested subscribed fund for account of surviving participants—had been put in practice in some cities of the United States for the accumulation of means for the erection of special buildings. Tontines as revenue expedients, immediate or remote, had dazzled Europe from the days of Lorenzo Tonti and Cardinal Mazarin. In France, with government tontines, upon the death of the last survivor—receiving as an annuitant all the interest earnings—the fund reverted to the State. It had been proposed about 1786—but not carried out—for all the United States to adopt a tontine, with foreign as well as American subscribers, for the immediate liquidation of the debts incurred by the respective States during the war of the revolution. A tontine was opened in England in 1789. In 1791, *Caisse Lafarge*, in France, was organized and attained a subscription of 60,000,000 francs, to end disastrously.

Samuel Blodget, Jr., who had passed part of his military service in the Revolutionary war on the staff of General Washington, and subsequently had engaged in the East India trade, with incidental underwriting, was a prominent organizer of tontines.\* His Boston Tontine Association had, as such, been an unsuccessful project, and Ebenezer Hazard, his Philadelphia correspondent, induced Mr. Blodget to try the establishment of such a fund in Philadelphia—and a portion of the Boston subscribers agreeing to continue their subscriptions, the advertisement from which we have quoted appeared. Mr. Hazard was chosen secretary of the Society.

Subscriptions received were invested in United States 6 per cents, but, with 187 persons signing the articles of Association for 8,400 shares out of 50,000 requisite to be subscribed, besides 50,000 to be transmitted to Boston for sale, subscriptions ceased, and at a meeting of the subscribers, November 3, 1792, the “five agents” who had been appointed to “pursue the preliminary steps for establishing the Society” announced that “Tontines in general appear to be in disrepute. No subscriptions to The Universal Tontine have been received for a considerable time; many who have subscribed are dissatisfied and are desirous either that the Association be dissolved or the funds be appropriated to some other use,” and finally such five agents announced “that the idea of a General Insurance Company had been suggested, and appeared to meet with public approbation.” A committee of seven was appointed to “devise, digest and report such other use or uses as they shall deem eligible and most beneficial to the Society for employing the Fund raised.” Even in such dilemma the strong monetary compact and bond of the tontine idea held the elements together. The committee was composed of Messrs. John M. Nesbitt, Jasper Moylan, Walter Stewart, Samuel Blodget, Jr., Alexander James Dallas, Matthew McConnell and Edward Fox. The meeting adjourning to November 12, the committee then reported that “in their opinion it will be for the interest of the concerned to change The Universal Tontine into a General Insurance

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\* He organized the Washington Tontine “to form an extensive Union of public and private benefits in the improvement of the new Federal City of Washington”—subscriptions to continue open until the first day of May, 1794—dividends proposed half yearly out of all rents and other net profits. Ultimate division of the estate was to be when the number of shares should be reduced to equality with the number of tenements. Ebenezer Hazard was the Philadelphia agent to receive subscriptions.

Company," and submitted a plan for such a combination, "To make Insurances upon Vessels and Merchandizes at Sea or going to Sea, or upon the life or lives of any person or persons, or upon any goods, wares, merchandize or other property gone or going by land or water," at such "Rates of Insurance or Premium" as the directors "shall deem advisable." Whereupon it was resolved "That The Universal Tontine Association be and it is hereby changed from its original objects and converted into a Society to be called The Insurance Company of North America."

So after a century of insurance by personal underwriters upon goods and vessels going by sea from Philadelphia, the step was first taken to insure *in solido*, marine hazards, upon the continent of which the new project bore the name.

November 19, the plan proposed was unanimously adopted—capital 60,000 shares at \$10 each. By December 1, 40,000 shares were taken. "Mr. Hazard received these subscriptions at his new house, which he had recently built at No. 145 Arch street"\* [above Fourth]. With 40,000 shares subscribed, in accordance with the seventh article of the constitution an election for fifteen directors was held at the State House—the usual place of meeting—when the following gentlemen were elected, receiving the votes appended to their respective names:—

Samuel Blodget, Jr., . . . . .	4136	Charles Pettit, . . . . .	4038
Joseph Ball, . . . . .	4120	Thomas L. Moore, . . . . .	4016
Magnus Miller, . . . . .	4090	John Ross, . . . . .	3970
Michael Prager, . . . . .	4090	Walter Stewart, . . . . .	3920
John M. Nesbitt, . . . . .	4050	William Cramond, . . . . .	3916
Matthew McConnell, . . . . .	4050	John Leamy, . . . . .	3590
Jasper Moylan, . . . . .	4040	John Swanwick, . . . . .	2496
John Barclay, . . . . .	2420		

Of the non-elected gentlemen receiving votes, Robert Ralston alone received a great number, viz., 2,348.

Four dollars per share were received upon subscriptions so far as paid. (The dollar was made by act of Congress of April 2, 1792, the unit of Federal money of account, and the monetary transactions of the Association began with such enumeration).

With its fund the company was to insure as a single underwriter.

December 11, 1792, the directors elected John M. Nesbitt president, and Ebenezer Hazard secretary. Mr. Nesbitt had a larger experience as a personal underwriter than any member of the board. Mr. Hazard had been post-master general of the United States, and was the compiler of Historical Collections consisting of State Papers and other Authentic Documents intended as Materials for a History of the United States—the first volume of which had just appeared. He was appointed at the meeting on the 11th of December, to prepare a draft of marine policy for the consideration of the directors. On the 14th an office was opened at 119 South Front street, and the acceptance of risks began the next day, the Association using the same policy blank as

\* Montgomery: Hist. Ins. Co. N. A., 12.

the personal underwriters—even without the erasure of the personal “office-keeper’s” clause—the title The Assurance Company of North America being written at the top, and the policy subscribed in this manner:—

*5333.33. Five Thousand Three Hundred & Thirty Three Dollars & Thirty Three Cents for the Assurance Company of North America.*

JOHN M. NESBITT,  
*Presidt.*

Messrs. McConnell and Ball were the sitting committee passing upon risks, a table of premiums having been prepared by a committee consisting of Messrs. Ross, Pettit and Miller. Policy No. 1 was upon the body, etc., of the ship America, at and from Philadelphia to Londonderry, at  $2\frac{1}{4}$  per cent.; vessel valued \$12,000; insurance \$5,333.33. Policy No. 2 was upon goods on board the vessel for \$3,200, at  $2\frac{1}{4}$  per cent. Both policies written for Conyngham, Nesbitt & Co.

Proffers of risks by the brokers at a commission of  $2\frac{1}{2}$  per cent. of premium were declined, the public being invited to address orders directly to the association. Orders from abroad to be accompanied with “Directions to some responsible House in Philadelphia.”

March 23, 1793, the following rules were adopted:—

1. All orders for Insurance must be given in writing, signed by the Applicant; and as minute a Description of the Vessel is expected as the person ordering the Insurance can give, respecting her Age, Build, how found and fitted, and whether double or single decked.

2. All Policies will be ready for Delivery in Twenty-four hours after the order for Insurance is accepted at the office, and the Policy must be taken up in Ten Days.

3. Notes with an approved Endorser for all Premiums must be given in Ten Days, payable as follows:

For American and West Indian Risques, in Three Months after the Date of Policy.

For European Risques, in Six Months.

For Indian and China Risques, in Twelve Months.

For Risques by the Year, in Eight Months.

For Risques for any lesser Time, in Three Months.

4. Losses will be paid in Ten Days after Proof and Adjustment; but if the Note given for the Premium shall not have become due within that Time, the amount of it shall nevertheless be deducted from the Loss to be paid.

This year, April 27, policy No. 201 was written—the political maritime troubles of the time having an indication in the clause:—

*The Assured warrant the above Cash [Goods] to be American property.*

It was a voyage risk at and from New Orleans to Baltimore or Philadelphia—rate 2 per cent.

The premium, loss and dividend account of the company for the first year was as follows:—

Premiums received, . . . . .	\$213,465 31	
“ determined, . . . . .		\$78,094 19
Losses paid, . . . . .	\$38,484 16	
Dividend 1st 6 mo's (6% on 1st and 2d instalments on capital stock), . . . . .	7,975 28	
“ 2d 6 mo's (6% on 1st, 2d and 3d* instalments on capital stock), . . . . .	14,000 00	60,459 44
Earned premium in excess of losses and dividends, . . . . .		\$17,634 75
Interest acc't, . . . . .		6,850 61
		<hr/> \$24,485 36

\* That is, “one per cent. per month on the sums paid in anticipation of the third instalment.”



In 1793 the number of square-rigged vessels entering the port was 1,050. For the year ended September 30, 1792, the value of exports from Pennsylvania—Philadelphia being the only seaport—was \$3,820,646; the exports for the last quarter alone of 1793 reached nearly one-half of this amount, being \$1,740,689. Estimating the average premium of 1793 at about 3 per cent., the amount insured that year by the association entitled The Insurance Company of North America was approximately seven million dollars.

But Europe was in arms. The Austrians and Prussians had crossed the French frontier and retired; the frenzy and savagery of the revolutionists of France were bringing their horrors to a climax. Louis XVI had been guillotined January 21, 1793, and his execution was followed by a declaration of war against the kings of England and Spain and the stadtholder of Holland.

The United States were neutral, yet exposed to varied arrests and restraints upon the seas. As the result of a cabinet council held in Philadelphia, President Washington issued a proclamation of neutrality, April 22, 1793, forbidding citizens of the United States taking part in any hostilities on the seas, and warning them against carrying to the belligerents any articles deemed contraband according to the modern usages of nations, and prohibiting all acts and proceedings inconsistent with the duties of a friendly nation towards those at war.

The ruling convention in France assumed to construe this pacific order as a violation of the treaty of alliance between the United States and France in 1778, and depredations upon American commerce began. The yellow fever appeared in the city in August, 1793, causing a large exodus of the inhabitants.\* The French minister Genest, or Genet, was pursuing his machinations; 13 French privateers, carrying from 8 to 16 guns respectively, were on the coast, and two frigates, *La Normandie*, 22 guns, and *La Précieuse*, were in the port.

A letter written in August, by Thomas Jefferson, Secretary of State, addressed to the Merchants of Philadelphia, stated that:—

I have it in charge from the President to assure the merchants of the United States, concerned in foreign commerce or navigation, that due attention will be paid to any injuries they may suffer on the high seas, or in foreign countries, contrary to the law of nations or to existing treaties; and that on their forwarding hither authenticated evidence of the same, proper proceedings will be adopted for their relief: The just and friendly dispositions of the several belligerent powers, afford well founded expectation that they will not hesitate to take effectual measures for restraining their armed vessels from committing aggressions and vexations on our citizens or their property.

At a meeting held by the merchants of the city, August 30, the following reply was ordered:—

SIR,—The Merchants of Philadelphia receive your communication, as one proof, among the many, of the attention of government to the commerce of the United States, which involves in it every other important interest of our country.

They will avail themselves of the invitation given, to convey all such information as they may obtain, respecting the vexation and spoil committed by the privateers of the

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\* The office of the Insurance Company of North America was practically removed in the fever months to Secretary Hazard's house in Arch street. There Mr. Hazard wrote policies, communicating with President Nesbitt at the junction of Nicetown lane and Hart lane, until the secretary and his family were stricken with the epidemic.—MONTGOMERY.

powers at war, upon the trading vessels of America: and they doubt not, upon representation being made, those powers will show the best disposition to restrain aggressions, which, being exercised against a people who, in maintaining a strict neutrality, have manifested a friendship for all, and ought to exempt them from such depredations.

I am, with perfect esteem,

By order of the committee, and in behalf of the  
Merchants of the city of Philadelphia,

JOHN NIXON.

To THOMAS JEFFERSON, Esq., }  
Secretary of State.

Seizures by British cruisers followed the adoption of an Order in Council in 1793 directing British war vessels to detain and bring into port all ships laden with the produce of any French colony, or carrying provisions or other supplies for the use of such colony. Thereupon an embargo resolution was passed by Congress.

By the spring of 1794 these numbers of vessels of the United States were, as reported, carried into British West Indies, where condemnation rapid and certain ensued, viz.: St. Pierre, 60 sail; Dominique, 62; Antigua, 45; Nevis and St. Christopher, 50; Montserrat, 40, and St. Vincent, 10 or 12 sail.\*

The incorporation of the association styled The Insurance Company of North America was part of the original purpose of the organizers, a committee to petition the State legislature for a charter and prepare a bill for that purpose consisting of Messrs. Stewart, Moylan and Ball, being appointed at the first meeting of the directors in December, 1792. A question as to form of policy had relation to the subject of individual liability of the shareholders, and for whatever doubts might exist as to this, a corporation presented the best practical solution. December 18, 1792, a petition of the directors to the General Assembly, praying for permission to bring in a bill of incorporation, was referred to a committee consisting of Messrs. Swanwick, Forrest, Turner, Eyerly and Gallatin. Among the reasons set forth by the petitioners for such an incorporation were that—

. . . . . for want of sufficient number of underwriters of responsibility in the principal cities and towns of the United States, commerce is burthened with the charge of commissions to European correspondents for effecting insurances, and large sums of money are consequently drained from the country; . . . . .

And the securing of—

. . . . . the assured through the means of an ample capital stock from a possibility of loss, which in the manner of making insurances heretofore practised has frequently happened through the failure of individual underwriters;

And,

. . . . . in order to establish a greater confidence in the minds of persons who may incline to do business with them, and to enable the assured, in case of disputed losses, to have more convenient recourse to law.

Among underwriting merchants of the city strong hostility was shown to this proposition. Accordingly, December 29, there was presented to the

\* The firmness and character shown by President Washington's administration in maintaining impartial neutrality, and demanding recognition of it by the belligerents in this crisis, gave dignity to the country. In the *Morning Chronicle*, of London, January 11, 1794, this intelligence appeared:—

"Ministers, we are happy to hear, on the representation of the American Merchants, that they had done what, if persisted in, must inevitably bring on a war with America, have revoked the order for making prize of all ships laden with the produce of French colonies. On the expense and disgrace they have incurred by that order, we shall take an early occasion of making some remarks."



legislature a remonstrance by "a number of the merchants and insurers of the port of Philadelphia," which being read and referred, counter memorials followed from "merchants, Ship owners, Insurers and citizens of the port of Philadelphia, praying that the Company stiling themselves the Insurance Company of North America may be incorporated." The opposition delayed the legislative committee's report. Then, February 28, 1793, three directors were appointed by the association to procure a charter from the legislature of Delaware, and thereupon the Pennsylvania legislative committee was heard from. So the Insurance Company of North America did not, any more than the Bank of North America, become a corporation of the State of Delaware; and two important contributions were omitted from the realization of any day-dream that may have existed to transfer the port of Philadelphia further down the western bank of the waters of the Delaware, to occupy the 2,120 square miles of the little State as emporium and suburbs—the territory being one city, and the city a State, with accordant legislation.

March 11, the committee of the Pennsylvania Assembly reported in favor of giving leave to the petitioning directors to bring in a bill conformably to the prayer of their petition. The reasons given by the committee for submitting a resolution to such effect were, in part,—

That insurance cannot be so well conducted by individuals as by an incorporated company, for want of that identity that would enable such a company to be sued in case of loss, where justice could be had much more speedily than in suing every separate underwriter to a policy, a work of such immense expence and loss of time, as frequently to defeat entirely the object of insurance.

That solidity is also to be considered, which it is impossible to attain with certainty with private underwriters, whereas this Company's proposed capital of 600,000 dollars in the public funds, will be a sufficient guarantee to those who employ them.

That already the charges of insurance have been considerably abated since the establishment of this company, whereby a great saving to the mercantile body is effected, who can afford to give so much more for the produce, as they pay less for insuring it.

That the number of persons underwriting in *Philadelphia*, does not at present exceed about fifty, and the risques they take, being on an average only about £200, on a single bottom, of course only about £10,000 can now be insured at the different offices here on a single risque, which occasions a drain of money for insurance to Europe, or to the neighboring States, very prejudicial to the body of this one.

That it is not in the contemplation of the petitioners to exact or ask for themselves any exclusive privilege of insurance, so that those private underwriters, or any others, may still go on to insure, as heretofore, for those who will employ them; consequently that only a competition on a more enlarged scale will ensue very beneficially to the carrying on of the business in question.

The resolution being adopted, the bill was reported April 1. On the 11th of the month, however, the Assembly adjourned; but upon reconvening the following December, the bill was taken up among the unfinished business of the previous session, and the anti-corporation party again began to thwart the project. One of such, writing from the conservative standpoint that insurance is an affair of merchants, simply and exclusively, thus contended for "ancient rights," against innovating modern intervention. It was as the mind altogether of Yesterday trying to foreshow the new features of To-Morrow.

[From the Gazette of the United States and Evening Advertiser, January 1, 1794.]

#### THOUGHTS ON INSURANCE CORPORATIONS, &c.

The design of those who wish to obtain an act of Incorporation of the Insurance company of North America, in its present state, may be perfectly proper, as the institution is



now in a very regular way of business, and owned chiefly by the merchants, who give employment to the company.

Yet the necessity of such application does by no means exist at this time—if, *as it is everywhere confessed*, the form of their policy may be made to answer the same purpose, by an addition of a single clause only—Stating that the assured agrees to hold the capital stock of the company, subject only for the payment of all losses incurred by the company—and that the company agree *to abide by the event of any suit recovered against their President only as far as their capital stock held in trust by the said President, and the Secretary of the society for the purpose may extend, and no further.*—And as the capital stock is thought to be greater than can ever be necessary in the worst of all possible events, it is presumed, that much more has been said on the subject of the incorporation, than in the event it can be found to deserve.

I am told that a member of the house, proposed by way of answer to the merchants, that he would have an incorporation on an entire new plan—and open to everybody, or he would have none; the impropriety of such a plan, in such instances, will strike at first view, *whether this was said in contempt or not, is out of the question*—an insurance company cannot exist but by the aid of the merchants. As this body of citizens have been used to do this business by way of exchange for each other, they were averse to any company for some time, but finding that the existing company was formed in part of merchants [and that the stock has been] since bought in at an advanced premium—since which, the value of the stock has fallen upon their hands, to not more than half the amount of the par and premiums, which will show that another company cannot succeed, even in the *subscription only*, unless this should be done by the ignorant and the unwary. In the city of London, there are but two ship insurance companies, and yet they have never been able to divide more than three to five per cent per annum—How then can two be supported in this city? and how would a man of principle feel, after having passed a law to incorporate persons for *they scarce know what?* If the event should be to injure as many, as in the instance of the Canal Companies, &c, for if a subscription was opened, thus in effect to injure the merchants, by an attempt to rob them of their ancient rights of insuring their own property, it could not succeed; it would be like a resolution of the house to incorporate the brick makers by the name of the Company of the Tailors; and the giving to every one a chance, thus to injure the merchants would not be more likely to succeed in the end, (as the power must finally rest with the merchants to give their business where they please) than if the house were to say that the brick makers should in future make the wearing apparel for every citizen of Pennsylvania.

*An Enemy to Unnecessary Corporations.*

In contradiction of the “Enemy” aforesaid, the 6 per cent. dividend, a few days later in January than his communication, helped to change the contest, producing something of the conditions he deprecated. With a committee of the directors of the association waiting upon the members, the general underwriting interest began to show either a mitigated dislike to the position of stockholder or a yielding to the circumstances existing; and, January 27, “a petition from divers merchants of the City of Philadelphia was read, suggesting the impropriety of incorporating the present subscribers to the Insurance Company of North America, and praying, that should the Legislature deem it proper to pass an act for the incorporation of an Insurance Company, the same may be done in such manner, as that those who are more immediately interested in commerce may have an opportunity of subscribing thereto, under such regulations as the Legislature have heretofore directed with respect to other incorporated Companies.”\*

The subject of such incorporation was referred to the city members as a committee, who being of opinion that “private underwriters only afford a precarious dependence in a country,” etc., and “public underwriters only would be dangerous as a monopoly,” etc., recommended the following resolutions to be adopted by the House:—

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\* Montgomery: (Minute of the Ins. Co. of N. A.) 41.

*Resolved*, That a Committee be appointed to bring in a bill to incorporate the Insurance Company of *North America*, now existing in this city,\* for the purposes prayed for.

*Resolved*, That a Committee be also appointed to bring in a bill for organizing and establishing a new Insurance Company in the said city of *Philadelphia*, to be carried on under the firm or denomination of "The Insurance Company of the State of *Pennsylvania*."

Both bills passing, that incorporating the subscribers to the Insurance Company of *North America* under the name, style and title of The President and Directors of the Insurance Company of *North America*, was approved by Governor Mifflin, April 14, 1794. Section 7, third paragraph, of the act conferred these powers:—

*Third*, The Directors shall divide themselves into committees, each committee to consist of three Directors; and the committees shall attend, in a weekly rotation, at the office of the company, and, together with the President, shall have full power and authority, in the name and on behalf of the Corporation, to make such insurances upon vessels and merchandise at sea, or going to sea, or upon any goods, wares or merchandise, or other personal property, going or gone by land or water, or in dwelling-houses, warehouses or stores, or upon buildings, against the risque arising from fire, or upon the life or lives of any person or persons, and to lend money upon bottomry and respondentia, and, generally, to transact and perform all the business relating to the objects aforesaid; but the said committees shall always act in conformity to such regulations as the Stockholders shall make, and subject to the orders and instructions of the Board of Directors.

The act incorporating The Insurance Company of the State of *Pennsylvania* was signed four days later, April 14. Both charters were to continue in force until January 1, 1815. The Insurance Company of the State of *Pennsylvania* was authorized to make marine, fire and life insurances. Limit of capital stock was \$500,000, in shares of \$400 each. The holding of the stock by other corporations was prohibited. The list of corporators named in the charter indicated a formidable marine insurance competitor to the Insurance Company of *North America*, viz.:—

Archibald McCall,	William Robinson,	George Emlen,
Jesse and Robert Waln,	Daniel Tyson,	John Sitgreaves,
Thomas Willing,	John Waln,	John Clement Stocker,
Whelen and Miller,	Philip Nicklin and Company,	George McCall,
Thomas Fitzsimons,	George Plumsted,	John Donaldson,
George Latimer,	Robert Wharton,	Anthony Butler,
Francis Gurney,	Snowden and North,	Charles Wharton,
John Swanwick,	Thomas Canby,	Jesse Waln,
Levi Hollingsworth,	Joseph Anthony,	John Field and Son,
Joshua Gilpin,	Plumsted and McCall,	James Craig,
Mordecai Lewis,	John and Wm. Montgomery,	John Wilcocks,
James Yard,	Alexander Foster,	Peter Kuhn,
Joseph Magoffin,	John Nixon,	Samuel Howell,
Ambrose Vasse,	George Eddy,	Wells and Morris,
John Steinmetz,	Philips, Cramond and Com'y.	Jeremiah Warder,
Ferguson McIlvaine,	Jehu Hollingsworth and Co.,	Blair McClenachan and Pat-
Jacob Downing,	Isaac Wharton,	rick Moor,
Joseph and Richard Waln,	Thomas M. Willing,	Jeremiah Parker,
Josiah Hewes,	Isaac Hazlehurst,	Joseph Swift,
Thomas Morgan,	Mathew Lawler,	Benjamin Morgan,
Miers Fisher,	James C. and Sam'l W. Fisher,	David H. Conyngham,
Smith and Ridgway,	George Meade,	Rumford and Abijah Dawes,
Benjamin Fuller,	Hartshorne, Large and Co.,	William Smith,
Thomas Giese,	Edward Dunant,	William Rawle,
Elliston and John Perot,	Robert Smith,	John Fry,
Jackson and Evans,	Wharton and Greeves,	Samuel M. Fox,
Rundle and Murgatroyd,	Alexander Wilcocks,	William Sansom,

\* The General Assembly met in Philadelphia from 1683 to 1799.



Joseph Parker Norris,	Peter Kemble,	Stephen Decatur,
Joseph Sims,	Nottmangel, Montmollin and	Curtis Clay,
James S. Cox,	Company,	Joseph Russel,
Stephen Girard,	Adam Kuhn,	George Westcott,
Daniel Smith,	James Mazurie,	Thomas Bell,
John Hunn,	Henry Pratt,	Holmes and Rainey,
Edward Russell,	Lambert Cadwallader,	Nathaniel Lewis,
Nalbro and John Frazier,	Archibald McCall, Jr.,	William Plumsted,
Samuel Coates,	Nathan Field,	Stuart and Barr,
Morgan and Price,	Bohl Bohlen,	Wilson Hunt,
James Ash,	Josiah W. and W. Gibbs,	George Harrison,
John Wharton,	Dutilh and Wachsmuth,	Woolman Sutton,
John Miller, Jr.,	Alexander Murray,	Thomas Tingey,
John Angus,	James Vanuxem,	William Allibone,
Britton and Massey,	David Pinkerton,	Thomas Penrose,
Edward Carrell,	Thomas Ewing,	Paul Beck,
William Forrest,	Peter Blight,	George Clay,
Mathias Keely,	Pragers and Company,	Samuel Penrose,
Philemon Dickinson,	Samuel Jackson,	Philip Care,
John Stille,	Benjamin Holland,	Louis Crosillate.

A few persons were stockholders in both companies. An office was opened by The Insurance Company of the State of Pennsylvania at No. 137 South Front street, with part of the capital subscribed and paid in. The first board of directors was elected October 6, 1794; hours of business 9 A. M. to 1 P. M., and from 3 P. M. until 8 P. M. Two of the board of directors, Archibald McCall and Thomas Fitzsimons, were members of the directory of the Insurance Company of North America, and acting as directors of The Insurance Company of the State of Pennsylvania, were displaced from the North America's board in accordance with a requirement of Section 4 of the latter company's act of incorporation. Mordecai Lewis was chosen president, and Samuel W. Fisher secretary. No policy was to be delivered by The Insurance Company of the State of Pennsylvania until a note or cash for amount of premium was deposited, and this was to be done within forty-eight hours after the insurance was agreed upon.

The charter of the Insurance Company of North America provided that the "persons, co-partnerships, or bodies politic who have subscribed [to the 60,000 shares of the capital stock] and have paid four dollars on each respective share, shall pay the residue" in three instalments, viz.: Two dollars on the second Monday of July, 1794, and two dollars on the second Monday of January, 1795, and two dollars on the second Monday of July, 1795.

. . . . . The funds of the said company shall from time to time be vested in securities for or evidences of debts due by the United States, or in the stock of the Bank of Pennsylvania, or of the Bank of the United States, or of the Bank of North America, or of the Schuylkill and Delaware Canal Company, or of the Schuylkill and Susquehanna Company, or of the Lancaster and Philadelphia Turnpike Company, or of any other company that now is or hereafter may be incorporated by the State, in such manner and in such sums as the president and directors of the said company shall judge proper. *Provided always*, that all deposits for the safe keeping of the monies and securities of the said company shall be made respectively in the Bank of Pennsylvania. (Act of Incorporation, Sec. 1.)

But it was further enacted,

SECT. 3. *And be it further enacted by the authority aforesaid*, That the said Corporation shall have a right and power to purchase, take and hold real estate, and the same to demise, grant, sell, assign and convey, in fee simple, or otherwise: *Provided*, That the clear yearly income of the real estate to be held by the said Corporation, shall not, at any time exceed ten thousand dollars.



September 10, 1794, re-argument was made in behalf of plaintiff in the Supreme Court on a question of total or average loss, claim having been made upon a personal underwriter as for total loss under circumstances represented, which claim was followed by a formal abandonment. The insurance was upon goods to the invoice amount of £931, aboard a sloop sailing from Philadelphia for Trinidad, May 5, 1789, the sloop springing a leak during a gale, and making the nearest port, St. Bartholomew, June 30. Upon surveys being held, the vessel was pronounced incapable of continuing longer at sea and the cargo to be very much damaged, and the latter was sold for 3,067 pieces of eight (reals). A resident of St. Bartholomew, N. Dawes, communicated by letters these circumstances to the insured, and sent to him the money or specie by Captain Southern, the master of the vessel. Dawes's first letter was shown to such of the underwriters on the goods as were in the city, and arrangements opened for a policy on return cargo. July 29, Captain Southern arrived in the sloop at Philadelphia, bringing with him Mr. Dawes's last dispatches, but no money. The insured thereupon called a meeting of all the underwriters, submitted the circumstances and papers to them, and made a verbal claim as for a total loss. It was agreed that, without prejudice to either party, Southern should be arrested, to compel him to account for the money. It was not, however, till November 6, that the insured addressed a letter to the underwriters making a formal abandonment, and on the same day they answered that they did not think proper to accept it, but offered to pay an average loss. Upon suit a verdict was taken for the plaintiff, subject to the opinion of the court whether the facts established a total or an average loss. The defendant contended that the circumstances of the case did not warrant an abandonment as for a total loss, and that even if the plaintiff had a right so to abandon, he had not exercised that right in due time.

The court, January 24, 1794, delivered its opinion "that the plaintiff cannot recover in this action as for a total loss"; and judgment *nisi* was thereupon entered for the defendant. Upon the re-argument, September 10, the court adhered to its former opinion, and, January 22, 1795, gave judgment for the defendant. (Fuller *vs.* McCall, 2 Dallas, 219)

The tendency of the war threatenings at sea in 1794 was to augment the rate of premium and decrease amount insured. April 13, 1795, a form for respondentia bond was approved by the directors of the Insurance Company of North America, the first loan of such character having been made March 30, for \$5,000, 18 months, at 25 per cent., "*including premium for insurance*" for the eighteen months.\* The writing of open policies, when judged expedient, was decided upon in May.

The influence of usage in determining the legality of a commercial act was involved in a case before the State Supreme Court in January, 1795. The defendant disputed items of an account for goods shipped by an English merchant, among others the charge for premiums, by reason of the policies not being produced.

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\* Hist. Ins. Co. N. A., 52.

This case is distinguished from that of *Williams vs. Craig*. There was no established rule of trade between France and Philadelphia. Our trade with that country began and ended with the American war. But between England and Philadelphia a settled rule had subsisted for many years, and the usage had been generally approved of. The plaintiff's charge for insurance was contained in every account rendered to the defendant; and as he made no objection thereto, he must necessarily be supposed to have acquiesced in the custom of the English merchants.

But no resolution was given by the Court, and the parties finally agreed to go out with the jury to liquidate the whole account. The jury, next morning, returned into Court, and found a verdict for the plaintiff for £247 5s. 8d. currency, validating thereby, as it would seem, the charges of premiums. (*Warder vs. William Craig*, 1 Yeates, 414.)

Upon the Federal government devolved the twofold perplexity of maintaining the rights of neutrality and of observing and enforcing the obligations of neutrality. A circular addressed to Governor Mifflin, April 16, 1795, by Edmund Randolph, Secretary of State, requested, in the name of the president of the United States,—

That as often as a fleet, squadron, or ship of any Belligerent Nation, shall clearly and unequivocally use the rivers or other waters of Pennsylvania, *as a station, in order to carry on hostile expeditions from thence*, you will cause to be notified to the commander thereof, that the President deems such conduct to be contrary to the rights of our neutrality;—and that a demand of retribution will be urged upon their Government, for prizes, which may be made in consequence thereof. A standing order to this effect may probably be advantageously placed in the hands of some confidential officer of the militia; and I must entreat you to instruct him to write by the mail to this Department, immediately upon the happening of any case of the kind.

This year Etienne Guinet was convicted in the Circuit Court of the United States, Pennsylvania district, of a violation of the neutrality laws, in fitting out and arming in the port of Philadelphia *Les Jumeaux*, a vessel from Port au Prince, which had arrived with a cargo of sugar and coffee, and mounted four guns and two swivels, as an armed merchantman. *Les Jumeaux* was owned by Jean Baptiste Le Maitre (who was indicted with Guinet, but not apprehended,) and some other Frenchmen. The vessel had originally been an English cutter, had ten port-holes on each side, but only four were open. The vessel “needed repairs,” and with all the port-holes opened and some new guns on carriages, and swivels found on an adjoining wharf, the master warden of the port requested the ship carpenter engaged in the work to cease, and reported to the secretary of war, who directed that all recent equipment be discontinued; but *Les Jumeaux* sailed, and it was stated that she carried the new guns. The act on which the indictment was founded declared:—

SEC. 3. . . . . That if any person shall, within any of the ports, harbors, bays, rivers, or other waters of the United States, fit out and arm, or attempt to fit out and arm, or procure to be fitted out and armed, or shall knowingly be concerned in the furnishing, fitting out or arming of any ship or vessel, with intent that such ship or vessel shall be employed in the service of any Foreign Prince or State, to cruise or commit hostilities upon the subjects, citizens or property of another Foreign Prince or State, with whom the United States are at peace; or shall issue or deliver a commission within the territory or jurisdiction of the United States, for any ship or vessel, to the intent that she may be employed as aforesaid, every such person, so offending, shall, upon conviction, be adjudged guilty of a high misdemeanor, and shall be fined and imprisoned, at the discretion of the Court in which the conviction shall be had, so as the fine to be imposed shall in no case be more than five thousand dollars, and the term of imprisonment shall not exceed three years, and every such ship or vessel, with her tackle, apparel, and furniture, together with all materials, arms, ammunitions and stores, which may have been procured for the building and equipment thereof, shall be forfeited, one-half to the use of any person who shall give information of the offence, and the other half to the use of the United States.



SEC. 4. . . . . That if any person shall within the territory or jurisdiction of the United States, encrease or augment, or procure to be encreased or augmented, or shall be knowingly concerned in encreasing or augmenting the force of any ship-of-war, cruiser or other armed vessel, which, at the time of her arrival within the United States, was a ship of war, cruiser or armed vessel in the service of a Foreign Prince or State, or belonging to the subjects or citizens of such Prince or State, the same being at war with another Foreign Prince or State with whom the United States are at peace, by adding to the number or size of guns of such vessel prepared for use, or by the addition thereto of any equipment solely applicable to war, every such person so offending shall, upon conviction, be adjudged guilty of a misdemeanor, and shall be fined and imprisoned at the discretion of the Court, in which the conviction shall be had, so as that such fine shall not exceed one thousand dollars, nor the term of imprisonment be more than one year.

Patterson, J.: . . . . . Much has been said upon the construction of the third and fourth sections of the act of Congress, but the Court is clearly of opinion, that the third section was meant to include all cases of vessels armed within our ports by one of the belligerent powers, to act as cruisers against another belligerent power in peace with the United States. Converting a ship from her original destination, with intent to commit hostilities; or in other words, converting a merchantship into a vessel of war, must be deemed an original outfit; for the act would, otherwise, become nugatory and inoperative. It is the conversion from the peaceable use, to the warlike purpose, that constitutes the offence. . . . .

Upon the whole, the Jury will consider the indictment; and give such a verdict as shall comport with evidence and law. Verdict, guilty. (*The United States vs. Guinet et al.* 2 Dallas, 321.)\*

Jay's treaty was ratified by President Washington, with the approval of the Senate, August 14, 1795. In its adjustments, American vessels were to be admitted into British ports in the East Indies as well as in those of Europe upon terms of equality with British vessels. Americans were admitted to trade with the British West Indies, in vessels not exceeding 70 tons burden, but without right to transport from America to Europe any of the principal colonial products. These arrangements were, however, limited in time to two years after the termination of the war in Europe. It also provided a commission to ascertain the losses sustained by Americans through illegal captures by British cruisers, stipulating that such losses were to be paid by the British government.†

French vengeance and reprisals ensued. October 12, 1795, this resolution was adopted by the board of directors of the Insurance Company of North America:—

*Resolved*, That Messrs. Ralston, Fry and Smith wait on the Secretary of State and inform him that a Report prevails that French cruisers have orders to Capture all vessels

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\* The French armed vessel called the Citizen, of Marseilles, was similarly fitted out, armed and equipped at some place in the river or bay of Delaware. (3 Dallas, 319.) By article 19 of the treaty with France (1788) it was declared that French vessels, public or private, might, on any urgent necessity, enter our ports and be supplied with all things *needful for repairs, i. e.*, without augmentation of force.

"Proceedings on a libel for damages in the District Court (Pennsylvania) had been superseded; but an information, Ketland, *qui tam*, &c., was immediately afterwards filed in the Circuit Court against the corvette Cassius, for illegal outfit in violation of the act of Congress, and the vessel being thereupon attached, an application was made to Judge Peters to discharge her on giving security, but the judge was of opinion that he had no power as district judge to make such an order in a cause depending in the Circuit Court. The French minister then deeming (as I have been informed) this prosecution to be a violation of the rights and property of the Republic, delivered a remonstrance to our government; and, converting the judicial enquiry into a matter of State, abandoned the corvette and discharged the officers and crew." (3 Dallas, 121.)

In the Circuit Court the information that had been exhibited against the Cassius came on to be argued upon a suggestion filed *ex-officio* by the attorney of the district, in pursuance of directions from the President, stating that the vessel was the public property of the French Republic, and, therefore, not liable to seizure and forfeiture. But soon after the argument was opened on the merits, a doubt was intimated by the Court, whether the Circuit Court had jurisdiction in this case, and the information was dismissed. (2 Dallas, 366.)

† The amount which was thereby subsequently paid was \$10,345,000.





By the President and Directors of the Insurance Company of North America.

No. 2639



WHEREAS

*Jonathan Mifflin.*

as well in *his* own Name, as for and in the Name and Names of all and every other Person or Persons, to whom the same doth, may, or shall appertain, in part or in whole, do make Insurance, and cause *himself* and them, and every of them to be insured, lost or not lost, at and from

*Philadelphia to Barbadoes & Martinique, with liberty to proceed to any other Port or Ports in the West Indies (British or Neutral) & back from thence back to Philadelphia.*

*Attest  
Ben Hazard Secy*

upon all kinds of lawful Goods and Merchandizes, laden or to be laden aboard the good *Ship* called the *Sally* whereof is Master for this present Voyage, or the Master thereof, is or shall be named or called, by whosever *she* shall go for Master in the said Vessel; or by whatsoever other Name or Names the said Vessel, or the Master thereof, is or shall be named or called, beginning the Adventure upon the said lawful Goods and Merchandizes, from, and immediately following the Loading thereof on board of said Vessel, at *Philadelphia* and endure until the said Goods and Merchandizes shall be safely landed at *Philadelphia* aforesaid, and so shall continue And it shall and may be lawful for the said Vessel in her Voyage to proceed and sail to, touch and stay at any Ports or Places, if thereunto obliged by Stretches of Weather, or other unavoidable Accident, without Prejudice to this Insurance. Touching the Adventures and Perils, which we the Assurers are contented to bear, and take upon us in this Voyage, they are, of the Sea, Men of War, Pirates, Enemies, Robbers, Thieves, Jettisons, Leakers of Masts, and Gunner Masts, Surprizals, Takings at Sea, Arrests, Restraints and Detractions, of all Kings, Princes or People, of what Nation, Condition or Quality soever, Hostilities of the Master and Mariners, and all other Perils, Losses and Misfortunes, that have or shall come to the Hurt, Detriment or Damage of the said Goods or Merchandizes, or any Part thereof. And in Case of any Loss or Misfortunes, it shall be lawful to and for the Assured, *his* Factors, Servants and Assigns, (and the Assured on *his* Part agree and engage *himself* *his* Factors, Servants or Assigns) to sue, labour and travel for, in and about the Defence, Safeguard and Recovery of the said Goods and Merchandizes, or any part thereof, without Prejudice to this Insurance, to the Charges whereof we the assurers will contribute according to the Rate and Quantity of the Sum herein insured. And it is agreed by us the Assurers, that this Policy of Insurance shall be of as much Force and Effect as the best Writing or Policy of Insurance heretofore made in the United States of America, or elsewhere. And so we the Assurers are contented, and do hereby bind the Capital Stock, and other common Property of the President and Directors of the Insurance Company of North America to the Assured, *his* Executors, Administrators and Assigns, for the true Performance of the Premises, confiding ourselves paid the Consideration due unto us for the Assurance, by the said Assured, or *his* Assigns, after the Rate of

*Ten per cent to two Ports, and the Assured agrees to pay an additional premium of one per cent for each Port the said Vessel shall proceed to or touch at more than two.*

And in Case of Loss, the Assured is to abate *Two per Cent*, and such Loss to be paid in Thirty days after Proof and Adjustment thereof; the Amount of the Note given for the Premium, if unpaid, being first deducted. And it is mutually agreed, that if any Dispute shall arise relating to a Loss on this Policy, it shall be referred to Two Persons, one to be chosen by the Assured, the other by the President of the Insurance Company of North America, for the time being; which Two Persons shall have Power to adjust the same; but in Case they cannot agree, then those Two Persons shall choose a Third; and any Two of them agreeing, their Determination shall be obligatory to both Parties. IN WITNESS whereof, The President and Directors of the Insurance Company of North America have, by the said President, subscribed the said insured, and caused their common Seal, and the Attestation of their Secretary to be annexed to these Presents, in Philadelphia, the *twenty first* Day of *November* One Thousand Seven Hundred and *seventy five*

MEMORANDUM. It is agreed, That Salt, Wheat, Indian Corn, Pease, or any other kind of Grain; Dates, Dates, and dried Tigs, Sweet in Salt, in Cask, Fruit, Apples, or any other Articles that are perishable in their own Nature, are warranted by the Assured free from Average unless general. All other Goods free from Average under Five per Cent. unless general.

In all cases of Return Premium, One Half per Cent. upon the Sum insured is to be retained by the Assurers. And it is mutually agreed by the Parties to this Policy, that no Part of the Premium shall be returned or abated, on account of any Deviation which shall be made by the owners, or their Factors, from the present Voyage.

Warranted by the Assured free from any Charge, Damage, or Loss, which may arise in Consequence of a Seizure or Detention of the Property for, or on account of, any illicit or prohibited Trade.

*The Assured warrants the above Goods to be American property and the Vessel an American Bottoms.*

*D: 2686. Two thousand six hundred & eighty six Dollars*

*Chas Bittit Pres pro tem*

Dollars 2686. on Goods, 268.60

*Policy 26910*

bound to British ports, and request him to apply to the French minister to know whether this is so or not.\*

The annexed policy of this company (No. 2639) is significant of the time. As a corporation contract it bears the attesting seal of the company (devised by Mr. Blodget) and the confirmatory signature of Secretary Hazard.

The arrivals and clearances at the port in 1795 were as follows:—

	Arrivals.	Clearances.
Ships, . . . . .	158	177
Barques and snows, . . . . .	26	18
Brigs, . . . . .	405	413
Schooners, . . . . .	506	601
Sloops, . . . . .	480	582
	<u>1,575</u>	<u>1,791</u>

The value of the exports was \$11,518,268. There was something of a cessation in the increase of shipbuilding in 1795, but the number of new vessels launched was 34, viz., ships 10, brigs 9, schooners 5, sloops 10.

Underwriting weighs danger in the balance of average until it is over-weighted. The quantum of insurance is made up rather of range of jeopardy borne, than volume of value written or number of subjects comprehended. In a time of far-extending warfare, spoliations upon neutral American commerce were increasing, in part by reason of the increase of that commerce. Largely, the seas were closed to the merchantmen of the principal commercial nations of Europe, as largely they were open to the American flag, but not without great impediments. The American bottom was in demand, and the prevailing circumstances incited illicit trade. The Philadelphia underwriters, corporate and personal, had augmenting opportunities united with ever-present reasons to hesitate and refrain. The warranty against "illicit or prohibited trade" was subject to the changing decrees of statecraft, incited by emergency or the fury of hostility, and also subject to the contingency of court interpretation. But ultimate compensation for national spoliation became an element in the probabilities. Jay's treaty, agreed upon in London, November 19, 1794, served to aid in making the assumption of risks practicable, and with rates of premium growing with rising complications, marine insurance continued and advanced in scope as a factor in securing for the United States the carrying trade of the world, until forced backward into narrow restriction. Despite of the maritime strife, the board of directors of the Insurance Company of North America had unanimously decided, March 2, 1795, "that so large a sum as \$35,000 be taken on Risques of the first Dignity." By this company, February 29, 1796,—

Messrs. Ball, Fry and Ralston were appointed† a "Committee to arrange and state the claims of this company against the Government of Great Britain, and the Captor or others, into whose hands the Property may have came, in cases of Capture and Depredation in

\* The United States *vs.* Richard Peters, District Judge: The trial of prizes taken on the high seas, and brought within the limits of a foreign belligerent power, for adjudication, by vessels of war of such power acting under its authority, and of all questions incidental thereto, belongs exclusively to the tribunals of such belligerent power.

Such vessels of war, authorized to make captures, may, in time of war, seize neutral vessels on the high seas, and bring them into the port of such belligerent to answer for any breach of neutrality; and for such captures they are not amenable before the tribunals of the neutral power, but only to the sovereign in whose service they acted. (3 Dallas, 121.)

† Hist. Ins. Co. N. A., 54.



the American Trade, so far as concerns this Company, to consult Counsel thereon if they find it expedient, and devise the proper mode of prosecuting our claims arising thereon, either through the Intervention of the Government of the United States or otherwise." On 16 April a committee was appointed to confer with the Insurance Company of the State of Pennsylvania and the private underwriters who had appointed committees to meet and consider what steps are necessary to be taken in the present state of affairs; and at a meeting the following day the board adopted the recommendation of the conference to decline underwriting any marine risk, peace risks excepted, "conditioned that it be adopted by the other Insurers in Philadelphia." But this action was repealed on 12 September, as the recommendation had not been carried into execution at the other offices. On 8 October another committee was raised to "wait on the Secretary of State to obtain such further information as he can furnish" on the order given by France to capture neutral vessels in order to distress the commerce of Great Britain, tidings of which had reached them "through the Newspapers and in private letters from England."\*

A committee was appointed to devise rates of premium for the exigency.

In the Pennsylvania Gazette, April 6,† it was stated that—

A gentleman lately from Martinique, was requested to make known in Philadelphia for the information of those concerned that a complete collection is made of all documentary papers relative to captures and adjudications on the part of the British government, and that the same may be expected shortly to arrive in the brig Venus, Captain Burrows, for this port.

The Flying Fish (so styled), a French privateer, captured in June the Mount Vernon, bound for London, two hours after the latter had sailed from Philadelphia; the captain and crew of the Mount Vernon being sent back in a pilot boat, reported that "the captain of the Flying Fish had a list of five or six ships of this port which he was determined to capture."‡

The league, offensive and defensive, of San Ildefonso was entered into in 1796 between France and Spain. In 1797 there were captures of American vessels by France and Spain on the plea of their navigating without the *rôle d'équipage* required by treaty.

French cruisers were increasing rates of premium early in 1797. February 16 a policy was issued through the office of Wharton & Lewis, insurance brokers, to William Bell, on the "Body, Tackle, Apparel and other Furniture of the brig Malabar, from New York to Jeremie or Port au Prince, with liberty to touch at Cape Nichola mole for a Convoy, and at and from either of them back to Philad'a." Rate, 25 per cent. Amount, \$6,000.

\* Among the instructions to the French privateer *Phénix*, dated 6 Vendémiaire, An. IV (September 29, 1796), relating to certain classes of vessels to be captured, was this one:—

. . . . . The captain will most carefully examine all ships sailing under American colors, many English ships, navigating under false papers, which will be known by the difference of the seals, meeting with the ships named hereafter:

The A, B, C, built in America,	English property.
The Liberty of Norfolk,	Do.
The Bell of Philadelphia,	Do.
The Brothers of Philadelphia,	Do.

He may stop them and bring them into France, leaving their crews on board the neutral ships.

October following, France issued an *arrêt* ordering the seizure of provisions on board American vessels bound for England, as well as British property found therein.

† The New York Insurance Company began business early this year (1796)—capital \$500,000. Value of exports from New York in 1795 was \$10,261,356.

‡ Goods were insured on board the Mount Vernon, "At and from Philadelphia to London, with liberty to touch at one port in the Channel, at a premium of three guineas *per cent.* the ship being stated in the policy to be *American*." The ship was carried into the Spanish island of Porto Rico. In an action on the policy, it appears that the ship was the property of *W. M. Duncanson*, who was born a British subject, had resided in the *United States of America* from August 1794, and was naturalized in October 1796, but not till after the ship was captured; that the ship had before belonged to an American citizen, and was registered at Philadelphia in his name when she sailed; that she was furnished with the following documents; 1st, a certificate of clearance, with a manifest of her cargo annexed; 2d, a sea-letter or passport in

This Insurance is made against all Risks—the Assured engaging to prove, if required, in any Court of Record in the State of Pennsylvania, but not elsewhere, that the Brig is an American Bottom.

\$500.	five hundred Dollars,	Jacob Gerard Koch.
\$500.	five hundred Dollars,	Amb'se Vasse.
\$500.	Five hundred Dollars,	Pragers & Co.
\$500.	Five hundred Dollars,	for Jere Warder,
		M. Prager, jr. }
\$500.	Five hundred Dollars,	for Miller & Murray,
		John Graham. }
\$500.	Five hundred dollars,	for Ross & Simson,
		James J. Barry. }
\$500.	Five hundred Dollars,	for Thos. Murgatroyd,
		Dan'l Murgatroyd. }
\$500.	Five hundred Dollars,	for John Savage,
		Peter Beauveau. }
\$500.	Five hundred dollars,	Peter Wright.
\$200.	two hundred Dollars,	Abijah Dawes.
\$300.	Three hundred Dollars,	Thomas & Eli Canby.
\$300.	Three hundred Dollars,	Willing & Francis.
\$300.	Three hundred Dollars,	Smith & Ridgway.
\$400.	four Hundred dollars,	Steph'n Girard.
\$6000.		

[Endorsed.] Received Feb. 22, 1797, the above Premium in a note @ 120 days.

for Wharton & Lewis.  
M. Breck,  
Thomas Wharton, Jr.

Registd in Book F., fol. 584.  
for Wharton & Lewis.  
(Insurance Brokers.)  
Will. Whiteside.

The Supreme Court of the State, at the March term, made a decision on the nationality of a vessel and cargo, which had become an English prize, with two Philadelphia policies on vessel and cargo for \$28,000, at and from Port de Paix to Philadelphia, with these clauses :—

It is declared that this assurance is made only against capture of the British, or any of the subjects of Great Britain.

The brig is warranted to be an American bottom; and the cargo of the said brig to be American property.

*French, English, and Dutch*, beginning thus: "Be it known, that leave and permission has been granted to *George G. Dominick*, master or commander of the ship called the *Mount Vernon*, of the town of PHILADELPHIA, of the burthen of 424 tons or thereabouts, being at present in the port of PHILADELPHIA, and bound for *Hamburg*, loaded with sundries as per manifest"; that, while she remained at *Porto Rico*, the provisional tribunal of prizes at *St. Domingo*, pronounced a sentence intituled, "Condemnation of the *English* ship *Mount Vernon*," which stated, "that the captain had thrown papers overboard; that he was a *Portuguese* without any certificate of his naturalization; then adds several other less important grounds; and concludes with declaring that these are sufficient motives to condemn the ship and cargo, and accordingly they are condemned as having been justly captured by the captain of the privateer to whom they are adjudged as his property." The case likewise set forth several provisions of the treaty of the 6th of February 1778, between *France* and *America*, by the 25th article of which it is stipulated, "that in case either of the parties shall be engaged in war, the ships belonging to the subjects of the other must be furnished with sea-letters or passports, expressing the name, property, and bulk of the ship; as also the name and place of habitation of the master, that it may thereby appear that the ship truly belongs to the subjects of one of the parties." The case also sets forth several of the *American* navigation laws, which have provided, "that ships and vessels registered by virtue of certain acts shall be denominated and deemed ships or vessels of the *United States*, and entitled to the benefits and privileges appertaining to such ships and vessels: Provided, that they shall not continue to enjoy the same longer than they shall continue to be wholly owned, and to be commanded by citizens of the *United States*."—The court, upon this case, gave judgment for the defendant. But, in the report, the grounds of their decision do not very distinctly appear. There is, however, one so obvious that it ought at once to have precluded all doubt upon the subject.—As *Duncanson* had not acquired the rights of an *American* citizen at the time of the capture, it followed that the *Mount Vernon* was not an *American* ship, within the meaning of the *American* navigation laws; and this, of itself, was a sufficient ground of condemnation. (Cond's Marshall: Philadelphia, 1810; B 1, C. IX, S. 6.)



The plaintiff (*Vasse vs. Ball*) was an American citizen. He had, for the outward voyage, contracted with M. Fauchet, the French minister, to carry a cargo of flour laden on the brig *Salmon*, *i. e.* from Philadelphia to Port de Paix. On the return passage to Philadelphia the brig was captured by a British privateer and taken into Bermuda for adjudication. The captain wrote to Vasse,—

Declaring the strongest apprehension, that a condemnation would ensue, as the captors had got possession of the receipt for the flour delivered upon the contract with M. Fauchet, and he had been compelled at Port-au-Paix to take on board a French officer and a few soldiers (who were all invalids) with their baggage and some articles of household furniture, in order to bring them for their health to America. The plaintiff communicated the capture to the defendant, and, in explicit terms, represented the case to be a desperate one; but the defendant with confidence, declared, that, as a new Governor had been recently sent out to Bermuda, there would be a change in the administration of justice; so that if the property was *bonâ fide* American, it would certainly be acquitted; and, in that confidence, he agreed to insure the vessel and cargo for a premium of ten per cent. At the time of making this agreement, the captain's letter was not shewn to the defendant; but the evidence raised a strong presumption that it was produced and read to him at a subsequent meeting, before the policies were underwrote. The brig and cargo being libelled in the Vice-Admiralty Court of Bermuda, the libel set forth the following allegations as causes of condemnation:—1st. That the vessel and cargo were French property. 2nd. That the vessel was an American transport in the French service employed to carry flour and soldiers to and from French ports. 3rd. That the vessel had been employed in carrying dispatches for the French Government. 4th. That the vessel had been employed in trading with the enemies of Great Britain, supplying them with the means of sustenance and of war. And, 5th. That the port from which the vessel came was in a state of blockade.

The Judge of the Vice-Admiralty pronounced a general decree of condemnation, upon both vessel and cargo, without specifying any particular cause of forfeiture.

McKean, C. J.: The first ground of defence attempted to be taken on this occasion, is; that the vessel was engaged in a trade with the French islands, which, as it was not permitted by the French government previously to the war, Great Britain, it is said, had a right to deem unlawful, and to construe into a violation of our neutrality. The fact has not been established: But if it had been established, I could not accede to the conclusion, which the defendant's counsel contemplated. I cannot conceive upon what principle, our accepting a benefit is to be converted into the perpetration of a wrong. What injury can be done to any belligerent power, by our sending the exports of America (not of a contraband nature) to a new market? Where is the cause of offence? In what consists the infraction of neutrality? . . . . .

The second ground of defence, is founded on the capture and condemnation of the vessel at Bermuda. It is urged, that the libel states the property to be French; and that the decree being general, affirms that allegation. But the libel consists of five charges; and if the charge of French property is affirmed, the other four, which stand precisely on the same footing, must be arbitrarily excluded; since, under different modifications, they alledge the property to be American. It is impracticable, therefore, to fix the precise cause of condemnation by an inspection of the record itself. . . . . The other allegations do not furnish any cause for cancelling the policies in the present case. . . . . An American citizen may lawfully, at any time, carry flour, and other articles of provision, or dispatches, for a French minister, from an American, to a French, port.

The third ground of defence states, that there was a concealment of some material facts in regard to the risque, which were known to the plaintiff at the time of the defendant's undertaking the insurance:—such as the outward transportation of a cargo of flour for Mr. Fauchet, and the homeward accommodation of French soldiers, with their baggage. If this statement is correct in point of evidence, the law arising from it is certainly in favor of the defendant. But the weight of the testimony does not seem to support it. . . . . Besides, if all the circumstances had been perfectly understood, there was nothing which any lawyer would have pronounced to be illicit in the trade. . . . .

A fourth ground of defence has been taken, upon this consideration, that the household furniture of the passengers came within the description of the cargo of the vessel; and, therefore, the warranty had not been strictly performed. I confess, that I agree in the general idea, that household furniture cannot be regarded as baggage, and must constitute a part of the cargo; but still, to admit this exception, under the peculiar circumstances of



the shipment, would be too indulgent to a harsh and captious spirit of litigation; nor, throughout the history of Admiralty proceedings, can there be traced a single instance of condemnation for such a cause.

Upon the whole, it is our opinion that the plaintiff is entitled to recover the amount of both Policies. Verdict for the plaintiff.

The defendant afterwards moved for a new trial, but it was refused. He then brought a writ of error; but on the 13th of July, 1797, the judgment, entered in pursuance of the verdict, was affirmed. (2 Dallas, 270).

May 26, 1797, through Wharton & Lewis, William Bell was insured on the body, etc., of the schooner Illinois, at and from Philadelphia to Jeremie, and from thence to any other British port in Hispaniola. Rate 25 per cent.—2½ per cent. to be returned in case she only goes to Jeremie.

The assured engages to prove if required in any Court in Pennsylvania but not elsewhere that the Bottom & Property are both American.

\$300.	Three hundred dollars,	. . . . .	Peter Wright.
\$300.	three hundred dollars,	. . . . .	Ross & Simson.
\$300.	Three hundred Dollars,	. . . . .	Rundle & Leech.
\$300.	Three hundred Dollars,	. . . . .	for Miller & Murray,
			John Graham.
\$300.	Three hundred Dollars,	. . . . .	Pragers & Co.,
\$300.	Three hundred Dollars,	. . . . .	for Jere Warder.,
			M. Prager, Jr.
\$300.	Three Hundred Dollars,	. . . . .	John Leamy.
\$300.	Three hundred Dollars,	. . . . .	Thos. & Eli Canby.
\$300.	Three hundred Dollars,	. . . . .	John Savage.
\$200.	Two hundred dollars,	. . . . .	Isaac Harvey, Jr.,
			for Abijah Dawes.
\$100.	One hundred dollars,	. . . . .	John Godf'd Wachsmuth.
\$3000.			

August 4, the same underwriters subscribed to the following endorsement:

For an additional Premium of Two and a half pr Cent now paid to us we agree that the Schooner Illinois shall have full Liberty to proceed, at our Risk & Hazard at and from Port au Prince back to Jeremie and at and from thence to Philadelphia with Liberty to touch at the Mole with or without Convoy as within mentioned, and that her going a second Time to Jeremie shall in no wise prejudice the within Insurance.

At the second trial, March term, 1797, in Supreme Court, upon a suit for total loss on missing schooner without abandonment to the underwriters, the jury, by special verdict, found for the plaintiff as to the facts stated. Policy was for date of October 6, 1786, and the insured had a moiety of interest valued at £300, lawful money of Pennsylvania, which was underwritten in part by the defendant to the amount of £100 for a voyage from Bath or Washington, North Carolina, to the Island of St. Thomas. The schooner sailed about November 9, and was never afterwards heard of. Next year the captain and seamen were in Virginia. November 1, 1792, the insured, a resident of North Carolina, informed the defendant, a Philadelphia underwriter, by letter, of the disappearance of the vessel (the agent who negotiated the insurance was a resident of Philadelphia and held the policy), and this was the sole information or notification given before the bringing of the action. On the first trial the verdict was for the plaintiff with \$289.84 damages, the chief justice observing:

We cannot conceive, that when there is nothing left to give up, there can be anything to abandon; and if there is nothing to abandon, it would be absurd, as well as useless, to insist upon a formal act of abandonment. Under all these circumstances of the case, therefore, we think that the plaintiff is entitled to recover the principal sum insured, and interest, to commence at the expiration of three months after the demand for payment.

After the second trial, and argument on the special verdict, the Court seemed to be of opinion "that the plaintiff could not recover; because he had not made proof of the loss, according to the terms of the policy, three months previously to the commencement of the action." (*Cambreling vs. McCall*, 2 Dallas, 280.)

Ultimately it was held, it being stipulated that "loss shall be paid three months after *proof* thereof is made," that the commencement of suit before that time elapsed was premature.

By a decree of the French Directory, January, 1798, it was declared: "that all ships having for their cargoes, in whole or in part, any English merchandise, shall be held good prize, whoever is the proprietor of such merchandise, which should be contraband from the single circumstance of its coming from England, or any of its foreign settlements; that the harbors of France should be shut against all ships having touched at England, except in case of distress, and that neutral sailors found on board English vessels should be put to death."\*

Political partisanship in the United States at this time was largely made up of foreign proclivities and antipathies, but when an American sentiment was called into action it became dominant. The "merchants, underwriters and traders of the city" united in an address upholding the attitude of President Adams on the failure of the commission to France, which was followed with a like address by the municipal authorities, and another by the young men of the city. By May 26, a bill passed the United States House of Representatives by 50 ayes, 40 nays, which, after reciting the spoliations by French vessels on the commerce of the United States near the coast, gave authority to the armed vessels of the United States to seize any such privateers and bring them into port for punishment according to the law of nations.

June 11, the merchants and underwriters met at the City Tavern—George Latimer, chairman, John Donaldson, secretary; and subscriptions were opened for building and equipping two ships, not exceeding 500 tons each, to be loaned to the government of the United States.

June 19, the Insurance Company of North America decided "not to insure to French ports, unless with a warranty against capture and seizure by the French." July 13, President Adams revoked the exequator of the consul and vice-consul of France, and commerce with France was suspended. Meanwhile Captain Stephen Decatur (the elder), cruising on the coast with the *Delaware*, 20 guns, captured *Le Croyable*, which French privateer was condemned. Two other such privateers were captured in the vicinity of the capes before August 1, when the yellow fever was again in the city.†

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\* In a letter dated New York, January 6, 1798, it was said: "A gentleman who recently left France informs that the captures of American property have so enriched those interested in privateers, that they had become Nabobs, and were employing part of their plunder in fitting out new pirates daily. That Americans owned part in almost all these freebooters; that these patricidal monsters obtain blank commissions from the French government, with which they visit different ports of the Republic to furnish vessels with, in which they are interested." (*Pennsylvania Gazette*, January 10, 1798.)

"A letter from a captain at the Havanna to his friend in New York, dated June 23rd, says: 'The French are taking everything they find. Ten prizes have been sent in since I arrived. Would you believe it! Our flag has been reversed, and left flying so; and to their eternal shame, some Americans had a hand in the business. There is not a privateer but what has more or less Americans on board.'" (*Id.*, July 4, 1798.)

† During the fever months of 1797 the office of Wharton & Lewis was opened at Frankford, seven miles distant from its regular location. A policy of this office, subscribed by Thomas Murgatroyd, for \$1,200, was on two trunks of merchandise, having a prime cost of \$1,409.45, aboard the brig *Nancy*, at and



The aggregate marine premiums received by the Philadelphia underwriters, which had been growing in volume for some years, culminated in 1798, and began then to lessen.

An American vessel, captured by a French privateer, March 31, 1799, was recaptured by a public armed American ship, April 21 following. Libel praying for salvage being filed, it was decided that the limited hostilities constituted a public war. A United States act of March 2, 1799, declared:—

That for the ships or goods belonging to the citizens of the United States, or to the citizens, or subjects, of any nation in amity with the United States, if retaken from *the enemy* within twenty-four hours, the owners are to allow one-eighth part of the whole value for salvage, &c., and if above ninety-six hours one-half, all of which is to be paid without any deduction whatsoever.

The District Court decreed for the libellants one-half of the whole value of the recaptured ship and cargo, which decree was affirmed by the Circuit Court of the Pennsylvania district, and on writ of error was affirmed by the Supreme Court of the United States. (4 Dallas, 37.)

In an action brought in the Circuit Court, April term, 1799, underwriters, personal, claimed that they were entitled to a full premium of 15 per cent. on cargo insurance (time policy—six months), without regard to any change or diminution in the value of the cargo during the term of the insurance. Risk began from the date September 8, 1794; date of policy was November 17. The cargo insured was on board the brig Pilgrim, loaded at Hamburg, valued at \$5,333. Policy contained these clauses:—

Lost or not lost, in port and at sea, and at all times and places, for the space of six calendar months, from the 8th day of September, 1794, to the 8th day of March, 1795, . . . . . beginning the adventure upon said goods and merchandizes from the loading thereof on board the said vessel, the 8th of September, 1794, and so shall continue and endure until the 8th of March, 1795, and continue of the same rate of premium until her next arrival at Philadelphia. . . . . The said goods and merchandizes for so much as concerns the assured and assurers in this Policy, are and shall be valued as interest shall appear. . . . . The vessel and cargo warranted American property.

On her passage for Philadelphia the Pilgrim was stopped, September 14, by a French privateer, and carried into Dunkirk. Here the supercargo was permitted to sell the cargo and receive the proceeds on account of the owner. She then took on board a small cargo, valued at about \$1,500, and, in the beginning of October, sailed from Dunkirk, bound to Hamburgh, but was taken on the passage by a British privateer, and carried into Falmouth, where an average loss was suffered, to the amount of £90 sterling. After a few

from Philadelphia to Petit Guave, sailing June 29, 1797. The Nancy was captured by a British armed boat July 30, and sent into Port au Prince, then in possession of the British forces. Captain Geddes, of the Nancy, was compelled by the British commanding officer at Port au Prince to sell his cargo, and Murgatroyd's merchandise thereupon produced 886.81 dollars. (It appeared that the goods had been fitted for a French market). With the proceeds the captain purchased 5,000 pounds coffee, and arrived with it at Wilmington, Delaware, October 12.

Murgatroyd had withdrawn from Philadelphia to avoid the contagion. November 6, the progress of the disorder having abated, Captain Geddes, being in the city, made a third protest, the first having been made at Port au Prince August 5, and the next day the plaintiffs abandoned to the underwriter, who refused to receive the coffee. Arbitrators appointed were of opinion that the plaintiffs could not claim as for a total loss, and the coffee was at length sold for \$1,131.27. Brought to trial, the plaintiff claimed as for total loss. . . . .

The Supreme Court gave it in charge to the jury, that they were of opinion the loss was not total. An abandonment should be made as a general rule at the first opportunity after knowledge of the loss, but pestilence, or special circumstances, may form just exceptions thereto. The ground of the rule is, that the assured shall not be permitted to take advantage of events subsequent to receiving notice of loss, and that the assurers may have it in their power to make the best of the property insured and saved. Here the plaintiffs could not profit by the delay, nor injure the defendant. . . . . A pestilence raged in the city where the policy was effected. . . . . The plaintiffs, whatever determination they might have formed, could not securely seek for the defendant in the city, and might not have known that Wharton & Lewis kept open their insurance office at Frankford. (3 Yeates, 27.)



days' detention and examination the brig was discharged, pursued her course to Hamburg, making that port towards the end of October. Having discharged her lading at Hamburg, she took on board another cargo to the amount of \$2,500; and sailed from that port in December, bound to Philadelphia, arriving in February, 1795.

The cause being tried by a special jury, and the plaintiffs contending that they were entitled to the premium of 15 per cent. on the risk beginning at Hamburg, September 8, during the term of the insurance. The defendant insisted that the words describing the risk were controlled by the provision, that the cargo should be valued "as interest shall appear"; and as he, "in case of a loss, would only have been entitled to recover an indemnity, co-extensive with the value of the cargo actually lost, the underwriters could not recover a premium for more than the amount of their risque."

Isaac Wharton, of Wharton & Lewis, testified that the defendant's construction of the policy was conformable to the general sense and usage of merchants, and this view was adopted by the court and jury;—the verdict proportioning the premium of 15 per cent. upon the values of the different cargoes, for the times they were respectively on board the brig, and deducting the amount of the average loss. (3 Dallas, 510.)

An order had been received by the Insurance Company of North America in the following terms:—

Insure 12,000 dollars, property on board the brig American, Captain Thomas Town, Jun., at and from Port de Paix to Philadelphia.

The policy was subscribed under the common seal of the company, March 9, 1797; rate 8 per cent. "upon all goods laden or to be laden on board the brig," etc., "at and from Port de Paix to Philadelphia, with liberty to touch at one other French port, on the north side of the island of Hispaniola, beginning the adventure on the said lawful goods and merchandizes from and immediately following the loading thereof on board of said vessel at Port de Paix"; but further, it was declared in the policy that the insurance was made on goods and cash. Two protests were made by Captain Town in relation to preceding and subsequent circumstances:—

The first made at *Port de Paix* stated, that he sailed from Philadelphia October 31, 1796; cleared out for St. Bartholomew's, bound to Marigalante, where he arrived November 18, and was refused permission to trade. Sailing therefrom arrived, November 20, at *Port Petre*, in Guadaloupe, where he sold his cargo, and received on board coffee, cotton and sugar. Thence bound to St. Thomas's. Arriving at St. Thomas's January 5, 1797, and selling his cargo for 18,247 dollars, he there bought 98 barrels of flour, and on the 22d sailed for Cape Francois, but being chased by an English man-of-war, a brig and cutter, was forced on the 26th into *Port de Paix*. The administration at *Port de Paix* put a guard of soldiers on board the brig, seized his papers and sent them to Cape Francois. He was obliged to go to the Cape to plead his cause, and on the 31st his papers were there given back to him, and declared to be in good order by the commissary. Returning to *Port de Paix*, the captain found the guard on board the brig, and was told by the administration that the money should be lodged in the treasury, and he should receive payment in coffee; whereupon he put the specie under his bed, and affixed four seals to the lock of his cabin door. February 4 (1797), the officers of the administration forced open his cabin door, and took away the specie, amounting to 15,449 dollars, promising him coffee instead.

Captain Town's second protest, made at Philadelphia on May 29, 1797, repeated the preceding particulars, and then set forth in continuation that a few days after the administration took the specie, they forcibly seized his 98 barrels of flour, also promising him to substitute coffee. He again went to Cape Francois, and on February 13 presented a memorial to Santhonax, who directed the chief of the administration at *Port de Paix*, to make him payment in coffee, at 23 *sous* per lb. Hereupon he solicited payment without effect until March 10 following [the day after the subscription to the policy], and then again went to the Cape, and March 19 presented another memorial to Santhonax, who ordered him back to *Port de Paix*, with a recommendation in his favour, but it was likewise fruitless. March 30, he presented a third memorial to Santhonax, who directed the *ordonnateur* to make him payment in colonial produce within fifteen days at furthest, and he thereupon obtained coffee, duties and provisions, to the amount of about 35,000 livres, and after refusing to sign a *procès verbal*, he sailed from *Port de Paix*, arriving in Philadelphia, May 27.

Claim being made, it was not recognized by the company, and suit resulting, the company defended on two grounds, viz.: 1. The object insured never existed. 2. Improper concealment of facts known only to the insured. It was testified that the occurrences cited were general usage of the French West India islands, and that such practices extended even to French vessels. Verdict was for the plaintiffs (Isaac Norris and John Hall). The Supreme Court held that a policy may be controlled as well as explained by the written order to make insurance, and that while the risk insured must correspond with the risk understood when written, yet insurers are bound to inform themselves of the course and usage of the trade to which the risk accepted belongs. (3 Yeates, 84.)

In the way of risk as actuality and risk as understood, was Captain Seabury's making, through stress of weather, the port of Philadelphia, in the sloop Sally, which vessel had sailed July 29, 1797, from Alexandria, Va., for New York, having on board 1,800 bushels of Indian corn in bulk, invoiced at \$1,389.32. "A sample of the corn was taken out [at Philadelphia] and found to be in good order." James Vanuxem subscribed \$600, and Pratt & Kintzing \$769, at  $1\frac{1}{2}$  per cent., August 11, on goods (Indian corn free from average, unless general), in the "good" sloop Sally, William Seabury, master, "beginning at and immediately from her loading, from Philadelphia to New York." Sailing for New York August 18, the sloop started her planks, filled with water off Sandy Hook, and sank between Shrewsbury and Barnegat. The broker testified that the circumstances of the Indian corn being shipped at Alexandria, or of the sloop having met with bad weather on her passage to Philadelphia, were not communicated either to the broker or underwriters. Claim was resisted on the grounds of misrepresentation and undue concealment of material facts.

Supreme Court of Pennsylvania. Shippen, C. J.: . . . . . It is of considerable weight in the present case, that the defendants were not liable by the words of the policy for an average loss on the Indian corn, and it has been very properly distinguished from *Hodgson vs. Richardson*, cited by the defendants' counsel, where the port of loading was unquestionably important.

It is not of moment, whether the swelling of the corn might have occasioned the sinking of the vessel, or whether the loss arose from any other cause. But the point worthy of consideration is, whether the risk run was really different from the risk understood and intended to be run, at the time of the agreement. (3 Burr, 1909.) If a full communication of the corn's being laden at Alexandria, and the sloop's having met with bad weather in her passage to this port, would have varied the risk of the underwriters, and induced them to demand a higher premium than  $1\frac{1}{2}$  per cent., or utterly to refuse their subscription, then the defendants were deceived and are entitled to a verdict; but if the fact is found to be otherwise, then the concealment is of an immaterial circumstance, and the policy is not vacated thereby.

Verdict against Vanuxem for  $687\frac{33}{100}$  dollars, and against Pratt and Kintzing for  $880\frac{8}{100}$  dollars. (3 Yeates, 30.)

Contribution as between co-underwriters was a question which came up in the Circuit Court in 1800, being an inquiry as to whether payment should be *pro rata* or according to priority of contract. The plaintiff (*Thurston vs. Koch*) had subscribed \$14,500 in New York (October 13, 1796) to a policy on goods on the brigantine Nancy, "at and from any port and ports in the West Indies, and at and from thence to New York." October 17, the so insured, W. J. Vredenburg, a New York merchant, obtained \$12,000 insurance in Philadelphia



(Koch, the defendant, taking \$1,300 of the amount,) on "merchandizes, lost or not lost, on same vessel at and from Cape Nichola Mole, to any ports and places in the West Indies, beginning from the loading of the merchandizes on board the Nancy at Cape Nichola Mole, and to continue until landed at any W. I. ports and at New York. For this insurance 10 per cent. premium was paid to the Philadelphia underwriters."

October 20, 1796, Vredenburg obtained \$2,200 insurance from the New York Insurance Company on merchandises,—contract worded the same as the Philadelphia policy.

The Nancy sailed from Cape Nichola Mole, September 12, 1796, for St. Marks, and was captured by a French privateer and condemned. Vredenburg recovered as for total loss in a suit against the plaintiff and the New York Insurance Company; case tried in New York Supreme Court.

The amount paid by Thurston, including \$1,083.60 premiums upon the policy subscribed in Philadelphia (after the deductions allowed in the case of a returned premium) as a consideration for the assignment of such policy to him, and the amount paid by the New York Insurance Company, completely satisfied the loss, with all the interest and costs.

Paterson, J.: The case before the court is that of a double insurance. . . . . The law on this subject is different in different nations of Europe. . . . . It was, however, ruled by Lord Mansfield, chief justice, and agreed to be the course of practice, that upon a double insurance, though the insured is not entitled to two satisfactions; yet, upon the first action, he may recover the whole sum insured, and may leave the defendant therein, to recover a ratable satisfaction, from the other insurers. . . . .

Such being the law of England, as to double insurances, before and at the commencement of our revolution, it was also the law of this country, and is so now. . . . . Equality is equity. This maxim is particularly applicable to commercial transactions; and, therefore, the rule of contribution ought to be favored. The pressure, instead of crushing an individual, will be sustained by several, and be light. The result is that the defendant must contribute ratably to make up the loss of the insured. (4 Dallas, 348.)

This judgment led to the introduction of a provision in Philadelphia policies making other subsequent insurance a mere excess above the prior insurance, which prior insurance was first answerable for loss to its full extent.

Napoleon Bonaparte having overthrown the Directory and been chosen, December, 1799, first consul of the French republic, an embassy was sent from the United States, and September 30, 1800, a treaty was concluded with France by which, in consideration of France releasing the United States from the guaranty of the treaty of 1788, pledging the United States to secure to France forever its possessions then held in America, the United States relinquished as against France the claims of her citizens upon the latter nation for vast spoliation of their property. Such spoliations, in the case of the Insurance Company of North America, amounted to about \$1,952,730.\* By the treaty no exemption was secured from future depredations. Action was begun by this company early in 1801 to present such losses, prior to the treaty of 1800, as claims against the United States.

By the close of 1801 there was a general agreement that "the risque of seizure in port ought not to be borne by the assurers."

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\* Hist. Ins. Co. of N. A., 56.



January 4, 1802, a meeting of merchants and other sufferers by French spoliations was held at the City Tavern, to coöperate with those of other localities alike interested in devising means for obtaining redress. Joseph Ball was appointed chairman of the committee of correspondence. A memorial to Congress on the subject followed in February.

In the Supreme Court, 1802, in a case growing out of a capture and an assignment of two policies (one on vessel, the other on cargo, etc.), to secure a debt—defendant claiming defalcation of seven protested notes, etc., given by the assignor before the assignment—it was held that an assignment of a policy does not pass the right of action at law to the assignee; a policy of insurance is assignable in equity, and, as a rule, every set-off between insurer and insured obtains against the assignee; where the assignment is merely equitable, an obligor may set off against the assignee all the equities to which he is entitled against the assignor, except, however, that if the assignee calls upon the obligor to know whether the whole money is due, and the latter is silent as to any claim he has against the obligee, he shall ever after keep silent against the demand of the assignee.

Shippen, C. J.: . . . . . The chief question in this case, is a question of fact, whether there was any notice given to the insurance company of the assignment, and whether they either by their acts, words of silence waived giving any intimation of their demands against the assured. We will only add that the underwriters are acquitted, unless the plaintiff or his creditors suffered by their default, in not letting their claim be shown.

The jury found for the plaintiff, but that the defendants were entitled to the defalcation. (*Gourdon vs. The Insurance Company of North America.* 3 Yeates, 327.)

With December, 1802, the Insurance Company of North America ended its first decade of marine underwriting as association and corporation. The period has been shown as involving complicated ordeals, and the average marine premium of the time was in excess of twelve per cent. Total marine premiums received in this decade by the company, \$6,037,456.71; losses paid, \$5,500,887.57; equal to 91.11 per cent. of the premium, leaving but a margin of 8.99 per cent. for expenses.

## CHAPTER VI.

*The Litigations consequent upon the Numerous Captures—Implied Insurance on Freight—Purpose to abandon and Execution of Abandonment—Reimbursement under Jay's Treaty for Maritime Spoiliations—The Marine Insurance Association called the Union Insurance Company—Value of Expectation of Recovery—The Ownership of the Mount Vernon—Union and Phœnix Insurance Corporations—Incorporation of the Delaware and of the Philadelphia Insurance Company—Cargo Policy of the Union Insurance Company—A Question as to a Warranty of American Property—Where the Onus Probandi as to Seaworthiness lies generally and specially—Marine Premiums upon Warranted American Property, January, 1805—Liberty to vindicate Truth of Warranty notwithstanding Sentence of Foreign Court of Vice Admiralty—Exercise of Option and Apportionment therewith of Loss in Double Insurance—The Decision of the Lords of Appeals (Great Britain) in the Case of the Essex—Insurance of Lien upon Cargo—Not to abandon at Blockaded Port with Liberty to proceed to some other Port, and Subsequent Restraint—Prime Cost and Value at Insurance; Open Policy—Abandonment, while dispossessed, of Acquitted Captured Vessel—Philadelphia Insurance upon "Freight Advanced"—Landing of Goods prohibited by Authority, Freight as being earned not Loss under Policy—Policy in behalf of Consignee with Power to Recover in Consignor; Division of Risk and Return Premium—Demand for Insurance—Organization of the Marine and Fire Insurance Company; Contemplation of Inland Transportation Insurance—Napoleon's Berlin Decree, 1806, and British Orders in Council, 1806, and January, 1807—Organization of the United States Insurance Company—Brokers' Insurance Offices; Jacob Shoemaker's Rules and Conditions—Prices of Philadelphia Insurance Stocks, March, 1807—Expenses during Embargo General Average, not Partial Loss on Freight—British Orders in Council, November, 1807, and Napoleon's Milan Decree—Meeting of Presidents of Public Insurance Companies and Policy Additions adopted—The Embargo Act of December, 1807, and its Consequences—The Lancaster and Susquehanna Insurance Company—Prices of Insurance Stocks, July, 1808—Question by the President of the United States Insurance Company, and Answer by Horace Binney—Calculation and Statement of Average under Combined Policy and Respondentia Loan of Philadelphia—Repeal of the Embargo Act—Incorporation of the Marine Insurance Company—Rescue by Crew of Captured Vessel an Act of Barratry—Ingersoll's Translation of Westerveen's Roccus—Congressional Prohibition of Trade with England and France—Captures by Danish Cruisers—Incorporation of the United States Insurance Company. (1803-1810.)*

THE numerous litigations arising from the frequent captures, restraints and detentions, produced a varied local application of the general maritime law. At the March term, 1803, the Supreme Court of Pennsylvania declared that "we have adopted the policy and principle which gave rise to the British statute of 19 George II, c. 27, in courts of justice and by commercial usage, but we are not prepared to say that every particular provision or resolution under it has been engrafted into our system of law." There was an action on a policy on goods aboard the brig *Neutrality*, "at and from Philadelphia to

one port in Martinico, and at and from thence to St. Thomas's," in 1798. The brig having been captured by a French privateer and taken into Point Petre, in Guadaloupe,—by the Court of Admiralty there both vessel and cargo were condemned, on the ground of being bound to an enemy's port in rebellion against the French republic. The goods were valued at \$15,000, and insured at the rate of 17½ per cent. The defendant corporation, the Insurance Company of North America, which had also underwritten a valued policy on the body of the vessel for \$5,000—both brig and cargo having the same owners—had paid \$15,858.91, and tendered also a return premium of \$829.31, but refused a further payment of \$4,812.09 as arising from an over-insurance. Claim substantially was made for freight upon the goods, for which there had been no expressed insurance. At the usual charge of \$2 per barrel, the freight would amount to—

	\$ 3,814 16
Prime cost of cargo and insurance premium thereon, . . . . .	11,182 56
Excess of insurance with intention to insure the freight, . . . . .	3 28
Total insurance, . . . . .	\$15,000 00

A merchant testified that the premium on freight in the city was usually the same as on vessels and cargoes, though it was otherwise in New York, and that the profits on goods were frequently insured as goods merely. Coffee known to have been laid in at 16 cents per pound, had often been insured at 22 cents per pound in valued policies, 6 cents being considered on both sides as profit; and so of other articles. The court held, upon the principle of actual indemnification solely, that the insured was entitled to the amount of the cost of freight to the first port of destination, in addition to the cost of the goods and of the premium. (3 Yeates, 458.)

The French authorities at L'Orient had seized, for public use, April 23, 1793, the cargo of a Philadelphia vessel captured, acquitted and restored, promising to pay the owners a fixed price. Capture took place on a voyage from Charleston to Amsterdam. The insured owner of a part of the cargo received notice of the capture in August, just before the appearance of the yellow fever in the city, and he retired into the country September 10, returned to the city November 19, and then went to South Carolina, writing to the underwriters, January 21, 1794, "I mean to abandon."

Expectation of receiving the money from L'Orient was not given up until 1796. Claim under the policy as for total loss proceeding in March term of the Supreme Court, 1803, (*Bell vs. Beveridge*), the court, in the charge to the jury, said that the plaintiff, by declaring that he meant to abandon, had made his election and could not afterwards retract; what constituted a reasonable period for abandonment was a question of fact, depending upon the relative situation of the parties, time and place, after notice to the assured of the loss; that there did not appear to have been any design on the part of the insured to waive the right to abandon, though its exercise was suspended by a public calamity, and other fortuitous occurrences. (4 Dallas, 272.)

Reimbursement, in 1803, of losers through former British seizures on the seas and condemnations, following Jay's treaty, the Insurance Company of



North America was thereby relieved in great measure from the pressure caused by the long series of disaster which swept away the greater part of its capital stock and had prevented dividends to stockholders, and was continuing to prevent dividends.\* Such restitution by Great Britain induced, however, confidence in the integrity of the other liable nations,† and favored an estimate of the war premiums as fully adequate to the varied war risks of the neutral. There was also plenty of hazard to write upon, and the subjects of hazard were increasing in number and quantity.

An association for the underwriting *in solido* of maritime hazards was organized in the summer of 1803, under the title Union Insurance Company. Thereby Joseph Ball, Richard Dale (John Paul Jones's lieutenant), and Lewis Clapier, of such association, became, or presumably became, ineligible further to serve as directors of The President and Directors of the Insurance Company of North America. The Union association commencing June 25, chose as president Joseph Ball, who had been president of the Insurance Company of North America from January 9, 1798, to July 8, 1799. It was something of a rule at the time to regard the secretary of such organization rather as chief clerk than an official. Among the directors was Stephen Girard, merchant, mariner and underwriter, and then noted for his wealth-acquiring schemes.

Value of expectation of recovery was an element in the award given this year upon a claim and declaration for total loss without abandonment (property captured and condemned). Supreme Court: The jury gave a verdict in favor of the plaintiff, finding damages as for a partial loss; subject to the opinion of the court, upon a motion for a new trial, to consider two points reserved: "1. Whether a previous abandonment, or offer to abandon, was indispensably necessary, to enable the plaintiff to recover in this suit? 2. Whether, on a declaration for a total loss, and proof of a loss in its nature total, the jury can give damages for less than a total loss?" It was held that the jury might estimate the value of the *spes recuperandi*, deduct such estimate from the sum insured, and find the remainder as a partial loss. (4 Dallas, 283; 1 Binney, 47.)

In connection with the transactions preceding the outfit of the Mount Vernon, whose capture and condemnation in 1796 have been noted, the Supreme Court was of opinion in 1799, action on policy, that the ship remained an American bottom at the time of capture, with the jury to decide upon the weight of the facts as stated. By a contract—

The plaintiff (*Murgatroyd vs. Crawford*) was to remain owner of the ship, and as such retain the register and make the insurance; she should, however, be delivered to Duncanson or his agents, and Willing & Francis should procure a freight for her on Duncanson's account; the plaintiff should then empower a gentleman who sailed as a passenger on her to assign and transfer the ship to Mr. Duncanson, in England, September 1, ensuing, at which time Duncanson would be duly naturalized as an American citizen; the consideration money should be secured by the notes of Willing & Francis, payable, at all

\* May 26, 1801, a committee of the directors reported to the Board: "That the number and amount of the Companies' claims on the British Government for Spoliations on Property which they think that nation ought to refund is about \$981,355; other losses occasioned to this office by Capture of the British and for which there is no expectation of reimbursement is about \$78,800."—Hist. Ins. Co. N. A., 56.

† The purchase of "Louisiana" from France by the United States, in 1803, was in part for the consideration of \$3,500,000, admitted by France to be due to citizens of the United States for maritime spoliations.

events, in certain instalments. The essential point in this agreement was, therefore, that the property should remain the plaintiff's until the day fixed for the transfer in Europe, and, accordingly, the register was continued in his name, and the present insurance was effected by him, as owner of the ship. Verdict was for the insured plaintiff. (3 Dallas, 491.)

Then, in 1804, in an action of trover as to the ship purchased by the defendant under the sentence of condemnation as prize (*Duncanson vs. McLure*), the Supreme Court acknowledged that the charge delivered in the case of *Murgatroyd vs. Crawford* was erroneous, and this overruled opinion had been previously condemned in the Circuit Court of the United States, Pennsylvania district, where an action for replevin had been first instituted in the name of *Murgatroyd vs. McLure*. (4 Dallas, 308.)

Measures were at once taken for obtaining the incorporation of the Union Insurance Company; all question as to the advantage and propriety of such legislation having now ceased. Such an act was approved February 6, 1804. The authorized capital was \$500,000, par of shares \$100 each; no stockholder to have more than twenty votes. Funds, as they grew by instalments paid on subscribed stock, could be invested as prescribed; as, for example, in real estate within the city or county of Philadelphia to the limit of income therefrom to \$10,000 yearly. Fifty thousand dollars might be loaned to the State, etc. With charter privileges to engage in the recognized practices of insurances, the Union was limiting itself to the writing of marine risks. In fact, the *underwriter* was hardly otherwise conceived of than as a maritime insurer.

Another insurance body which had just been formed received a charter of the same date as the Union—title Phoenix Insurance Company. Charter periods of both companies were alike to terminate in 1815. Capital was named at \$600,000, in shares of \$100 each—one-half of the capital stock to be in shares of the Insurance Company of North America. Organization under the charter was promptly begun; Isaac Wharton was selected as president, and David Lewis vice-president. The Delaware Insurance Company, incorporated March 10, was another evidence of the activity characterizing maritime insurance affairs in 1804; capital \$500,000, shares \$100 each; payments on the capital stock were to be one-fifth in bank stock and four-fifths in specie. The Delaware organized with Thomas Fitzsimons as president. Then, ten days later, March 20, the Philadelphia Insurance Company was incorporated, to continue, like the previous three incorporations of this year, until 1815; capital \$400,000, shares \$100 each. No other corporation than the company itself was to hold, directly or indirectly, any share of the capital stock. President chosen was Samuel W. Fisher.

By July 25, 1804, the Union issued policy No. 1198, which was as follows:

No. 1198. BY THE UNION INSURANCE COMPANY OF PHILADELPHIA.

WHEREAS *Wilson Hunt* as well in *his* own Name, as for and in the Name and [L.S.] Names of all and every other Person or Persons, to whom the Property hereby insured doth, may, or shall appertain, in part, or in the whole, *doth* make Insurance, and cause *himself* and them, and every of them to be insured, in the sum of *Four thousand three hundred and fifty Dollars*, lost or not lost at and from *New Orleans to Liverpool* upon all kinds of lawful Goods and Merchandizes, laden or to be laden on board of the good *ship* called the *Augusta* whereof is Master for the present voyage *Delano* or whosoever else shall go for Master in the said vessel, or by whatsoever other name or names the said vessel, or the Master thereof, is or shall be named or called:



Beginning the adventure upon the said lawful Goods and Merchandizes, from, and immediately following the loading thereof, on board of the said vessel, at *New Orleans*, aforesaid, and so shall continue and endure, until the said Goods and Merchandizes shall be safely landed at *Liverpool*, aforesaid. And it shall, and may be lawful for the said vessel, in her voyage aforesaid, to proceed, and to sail to, touch, and stay at any ports or places, if thereunto obliged by stress of weather, or other unavoidable accident, without prejudice to this insurance. Touching the adventures and perils which the Assurers are contented to bear and take upon them in this voyage, they are of the Seas, Men of War, Fires, Enemies, Pirates, Rovers, Thieves, Jettisons, Letters of Mart, and Counter Mart, Surprisals, Takings at Sea, Arrests, Restraints, and Detainments of all Kings, Princes, or People, of what Nation, Condition or Quality soever, Barratry of the Master and Mariners, and all other perils, losses and misfortunes, which have, or shall come to the hurt, detriment, or damage of the said Goods or Merchandizes, or any part thereof. And in case of any loss or misfortune, it shall be lawful to and for the Assured, *his* factors, servants, and assigns, (and the said Assured on *his* part agrees and engages by *himself*, *his* factors, servants, or assigns) to sue labour, and travel for, in and about the defence, safeguard, and recovery of the said Goods and Merchandizes, or any part thereof, without prejudice to this Insurance, to the charges whereof the Assurers will contribute, according to the rate and quantity of the sum herein insured. And it is agreed by the Assurers, that this Writing or Policy of Insurance shall be of as much force and effect as the surest Writing or Policy of Assurance heretofore made in any of the United States of America, or elsewhere. And so, the Assurers are contented, and do hereby bind the Capital Stock, and other common Property of the Union Insurance Company of Philadelphia to the Assured *his* executors, administrators, and assigns, for the true performance of the premises, confessing themselves paid the consideration for this Assurance, after the Rate of *Three and a half per cent.* And in case of loss, the Assured is to abate Two per cent., such loss to be paid in Thirty Days after proof and adjustment thereof; the amount of the Note given for the Premium, if unpaid, being first deducted.

Provided Always, and it is hereby further agreed, That if the said Assured shall have made any other Assurance upon the premises aforesaid, prior in date to this Policy, then the Assurers shall be answerable only for so much as the amount of such prior Assurance may be deficient towards fully covering the premises hereby assured, such amount being understood to be the whole sum underwritten, without any deduction for the insolvency of all or any of the under-writers, and that this Policy, so far as the property has been previously insured, shall be considered as null and void to all intents and purposes, and the said Union Insurance Company of Philadelphia, shall return the Premium upon so much of the sum by them assured, as they shall be by such prior Assurance exonerated from: And that in case of any Insurance upon the said premises subsequent in date to this Policy, the said Union Insurance Company of Philadelphia, shall nevertheless be answerable for the full extent of the sum by them subscribed hereunto, without right to claim contribution from such subsequent Assurers, and shall accordingly be entitled to retain the Premium by them received, in the same manner as if no subsequent Assurance had been made.

In Testimony Whereof, the Union Insurance Company of Philadelphia have caused their common seal to be hereunto affixed by their President, in Philadelphia this *twenty-fifth* Day of *July* in the year of our Lord one thousand eight hundred and *four*.

Memoranda. It is agreed, That Salt, Wheat, Indian Corn, Pease, or any other kind of Grain: Malt, Bread, and Dried Fish, stowed in bulk; Leaf Tobacco, whether in Casks or otherwise, Fruit of all kinds, and any other articles that are perishable, in their own nature, are warranted by the Assured free from Average, unless general. All other Goods free from Average under Five per cent., unless general.

It is further agreed, that if any dispute shall arise, relating to a Loss on this Policy, it shall be referred to two persons, one to be chosen by the Assured, and the other by the Assurers, which two persons shall have power to adjust the same; but in case they cannot agree, then those two persons shall chose a third, and any two of them agreeing, their determination shall be obligatory on both parties.

In all cases of Return Premium, one half per cent. upon the sum insured, is to be retained by the Assurers; and it is mutually agreed, that no Part of the Premium shall be returned, or abated, on account of any deviation which shall be made by the Owners, or their Factors, from their present Voyage.

Warranted by the Assured free from any Charge, Damage, or Loss, which may arise in consequence of a seizure or detention of the property, for or on account of illicit or prohibited Trade.

*Warranted American property, proof whereof to be made in the United States only, if required.*

Dollars

4,350 on Goods.

JOSEPH BALL,  
President.



The Insurance Company of the State of Pennsylvania had subscribed, January 30, 1795, \$13,333.33, at 9 per cent., on the brig Betsy, William Bass, master, from Philadelphia to Bordeaux, and at and from thence back to Philadelphia, and on all kinds of goods and merchandises laden or to be laden on board of the vessel. The goods were warranted to be lawful, and the brig an American bottom. Vessel and cargo being captured, the former was promptly declared by the Vice-Admiralty Court at Bermuda to be American property, but one or two letters discovered on board throwing some doubt on the nationality of the cargo, as being of possible French ownership, further judicial inquiry was then made and the Vice-Admiralty judge declared its restitution. But the advocate-general appealed, and when the cause was heard before the Lords Commissioners of Appeals, in Great Britain, it was declared that the cargo was good and lawful prize, as belonging to the enemies of Great Britain. Vessel and cargo were owned by John Browne, the insured. An amicable action was entered to March term of the Supreme Court of Pennsylvania, 1800. Browne becoming insolvent, obtained, December 7, 1801, his certificate of conformity to the act of bankruptcy. The court, at September term, 1804, held that it was not an objection against a bankrupt being a witness, that the names of his assignees were not substituted in the action immediately on his obtaining certificate of conformity. The Pennsylvania court, however, deeming itself to be bound by the decision of the British Court of Appeals, which directly falsified the warranty as to the cargo, "though astonished at the decision of the *dernier resort*," said:—

The peace of civilized nations demands of us, that we should give full credit to the judgments of foreign courts, having competent jurisdiction over the subject matter, and are compelled in this instance to decide against our individual feelings as men. (4 Yeates, 119.)

The schooner Eagle, at and from Edenton, in North Carolina, to Cape Nichola Mole, had come to Philadelphia as the next port, after springing a leak on striking a bar, with the leak augmented during a severe gale. Suit being brought on policy on cargo, and on policy on schooner, the Supreme Court, at December term, 1804, decided the protest of the master to be evidence, as also the warrant and survey in the admiralty, and on a question of seaworthiness ruled that burden of proof as to insured vessel being in all respects fitted for the trade in which she is employed lies *generally* on the insured, but when the underwriter means to defend on the ground of unseaworthiness at time of departure, and the loss may be fairly attributable to sea damage or other unforeseen misfortune, the *onus probandi* lies on the insurer. (Brown *vs.* Girard, 4 Yeates, 115.)

With lull in sea troubles, and with something of reduction arising from augmenting competition, premiums at the opening of 1805 had approached towards a peace or non-seizure standard, but any rating was of very uncertain tenure; or, so to speak, the neutral's position was at the disposal of each belligerent. The rates upon warranted American property out or home were as follows in January, 1805:—

	Per cent.		Per cent.
To any port in Great Britain,	3 to 3½	Africa,	3½ to 4
France,	3½ to 4	Gibraltar,	3 to 3½
Sweden or Denmark,	4 to 5	Madeira,	3 to 3½
Russia,	4 to 5	Canaries,	3 to 3½
Hamburg & Bremen,	4	Cape de Verd, &c.,	3½ to 4
Spain, without the straits and		Persia & India,	4½ to 5
Bay of Biscay,	3 to 4	China out & home,	8½ to 9
The Bay of Biscay,	4	Jamaica,	4½ to 5
The Mediterranean,	5 to 6	British Windward Is.,	3 to 4
Lisbon,	3	Havanna, &c., in Cuba,	3 to 4

In the same month the following notice was issued by the board of directors of the Phoenix Insurance Company:—

PHŒNIX INSURANCE COMPANY OF PHILAD'A.

The stockholders are notified that agreeably to the Articles of Association, the second installment on the shares in this Company, will become due on Monday, the 6th day of February next, viz.—Ten Dollars in cash, payable at the Office of the Company, No. 96, South Second street, and a transfer to the President in trust for the Company of One share of Stock in the Company incorporated by the name of the President and Directors of the Insurance Company of North America, on each and every Share of Stock held in the said Phoenix Insurance Company of Philad'a.

By order of the Board,

ISAAC WHARTON, President.

[Extract from the second article of Association.]

"In case of failure in paying any of the said Instalments or making any of the said transfers for the space of ten days after the same shall become due, every share in this Association, on which such default shall be made, including as well the monies previously paid, as the share or shares of the said incorporated Insurance Company previously transferred as aforesaid, shall be forfeited to the said *Phoenix Insurance Company of Philadelphia*, and may be disposed of as the President or Vice President and Directors thereof shall order and direct."

A breach was made in the presumed impregnability of the rule that condemnation by a foreign court was conclusive as to breach of neutrality. Policies had begun to entitle the insured to prove (as sufficient proof) the property American, in the "city" or in the "United States," and not elsewhere. This was not inserted upon any supposition of ousting foreign admiralty courts from their jurisdiction, but as a provision between the American insurer and the American insured.\*

The Insurance Company of the State of Pennsylvania had subscribed, January 18, 1797, \$12,000 at 12½ per cent., under an open policy upon coffee on board of the brig *Sea Nymph*, at and from Jeremie to Philadelphia. March 25, following, James Yard, the insured, effected another insurance

\* At April session, 1805, of the Circuit Court, Pennsylvania district, upon the opening of a cause on the defendant's side, the plaintiff, the insured, objected to the reading of the proceedings in the Court of Vice-Admiralty in New Providence, in consequence of a clause in the policy. The property insured was warranted American property, with this proviso: That if the same shall be called in question, it shall be sufficient on the part of the assured to prove in any court of the United States that the property is American.

Washington, J.: . . . . The sentence of a Foreign Court of Admiralty condemning a vessel as enemies' property or as lawful prize, was and is considered universally in England, and has been so decided in some of the States, as conclusive proof of that fact against the assured so as to forfeit his warranty of neutrality; and this, too, though he should be able to prove the falsity of the conclusion. The [clause proposes] to correct this. . . . . The assured did not chuse that their property, when really neutral, and which they could prove to be so, should be declared otherwise. But they never meant to go further, and it would have been improper to have done so. They are, notwithstanding the sentence, to be at liberty to vindicate the truth of their warranty. But the underwriter may combat that fact by reading the proceedings of the Foreign Court of Admiralty as evidence, but not as conclusive evidence. Indeed, they may often be essentially necessary to prove the loss. (*Calbraith vs. Gracie*, 1 Wash. C. C., 49.)

for \$13,000 through the office of Wharton & Lewis, at the rate of 15 per cent., on the coffee laden or to be laden on the same vessel, under a valued policy—the coffee being valued at 20 cents per pound, without stipulation appearing as to any insurance on profits; at and from Caymette, in the West Indies, with liberty to touch and trade at Jeremie and the Mole, with or without convoy to Philadelphia. The brig being boarded by a French vessel, taken into Cape Francois, and condemned by the French court of prizes on the ground of being laden with colonial produce of a revolted port in a state of siege, under the protection of the British government, Yard executed an abandonment, December 19, to the company, ceding to the amount of the property insured by the company. The residue was ceded by abandonment, January 29, 1798, to the personal underwriters. The Insurance Company of the State of Pennsylvania adjusting its loss, paid \$11,760, after deducting 2 per cent. according to the policy. The underwriters in the office of Wharton & Lewis decided to pay at the rate of \$30.15\* for each \$100 by them respectively subscribed, without injury to the claim on either side; and Thomas Murgatroyd, a subscriber to the amount of \$1,500, paid in pursuance thereof, \$457.35 [30.47 per cent.].

Yard having become a bankrupt, suit was brought by his assignees against Murgatroyd; the cause was tried before the Supreme Court in banc, December 11, 1804, (claim 64.37 per cent. per \$100 insured),† and verdict was given for the defendant.

The chief justice gave it in charge to the jury, that in double insurance the insured had the option of applying to either set of underwriters on a loss happening. If, as here, there was an open policy, and also a valued policy, and the prime cost of the merchandize, with the attendant charges in the outset, were less than the valuation, they would naturally be led to go on the policy, wherein the valuation was higher; but if the valuation was less than the prime cost, it would be most eligible for them to proceed first on the open policy. But insurance being a contract of indemnity merely, one satisfaction only can be had. . . . Yard having received an indemnification for more than six-sevenths of the commodity insured, had an insurable interest in the remaining one-seventh, which is said to be 13,384 pounds, rated at 20 cents per pound, . . . the proportional loss whereon he has received from the defendant. His assignees must be bound by his acts.

* "It is agreed that the coffee included in the two policies weighed according to the French standard,	92,966 lbs.
Add 8 per cent. to bring it to American weight,	7,437 "
	100,403 lbs.
All the coffee included in the invoice, which was insured cost 97,667 livres, which at 22 livres for 20s. is 4439l. 8s., which carried out in dollars, amounts to 11,838 dollars and 40 cents.	
Mr. Yard received from the Insurance Company of Pennsylvania on a prior insurance of \$12,000,	\$11,760 00
He paid a premium thereon,	1,500 00
Hence the insurance produced the net sum of	\$10,260 00
and left a balance to be carried to 2d policy of \$1578.40 which is payable in coffee at 20 cents per lb.—	.
Therefore if \$11,838.40 give 100,403 lbs. of coffee what will \$1578.40 give?	
Answer, 13,384 lbs., which at 20 cents per pound is	\$2,676 80
To a return premium of \$14.25 per cent. (as the assurers are entitled to 5 per cent. on the premium of 15 per cent.) on the sum over insured of \$10,823.20,	1,542 30
	\$4,219 10
Therefore if \$13,500 be subject to pay \$4,219.10, each \$100 is answerable for \$30.15."	
[ \$31.25.]	

† "But it is contended by the assured that the valuation in the policy of 20 cents per lb. on each and every pound weight of the coffee should be extended to all the coffee shipped by, or order of Martin Sarrison on board of the brig Sea Nymph, and the operation of that opinion is stated as follows:—



On motion for a new trial after the opinions of Samuel W. Fisher, president of the Philadelphia Insurance Company, Thomas Fitzsimons, president of the Delaware Insurance Company, and of Isaac Wharton, were produced, showing the usage to be as laid down by the chief justice in his charge to the jury, and to be grounded on the same principles, new trial was refused unanimously. (4 Yeates, 161.)

The decision of the Lords of Appeals, Great Britain, made in September, 1805, in the case of the *Essex*, produced an additional impediment to commercial navigation in respect to exportation by a neutral of its imported produce of a belligerent's colony.\* The exports of domestic produce from Philadelphia in 1805 were about one-third of the local exportation.

An insurance (\$10,000 on goods @ 10 per cent.) at and from "the Havanna" to New York was effected, August 13, 1804, in the Union Insurance Company, through the following circumstance: Ship Hibberts and cargo, property of British subjects, had been captured by a French privateer and carried into Havana. They were there claimed by an English merchant, Mr. C. Frazier, on the recommendation of Captain Vansittart, commanding a British frigate, for the British owners, and an order for restitution was granted on security being entered to abide the issue of an appeal. Security was given by Felix Crucet, who was constituted attorney, and the ship and cargo were delivered to him, on account of the original owners, accompanied by a written declaration from Mr. Frazier "that ship and cargo shall be subject to said Crucet's orders until he shall be finally indemnified for his disbursements for costs of suit, outfits, commissions, &c., and be released from his security."

Crucet having concluded to send the ship and cargo to the United States, wrote to his correspondent in New York, ordering insurance and stating the facts. The invoice was headed:—

It is shown in the preceding sketch that the coffee weighed 100,403 lbs., which at 20 cts. per lb. amounted to . . . . .	\$20,080 60
And that Mr. Yard had a prior insurance made of . . . . .	12,000 00
Which would leave to the debit of the policy in question, . . . . .	\$8,080 60
Subject to a deduction of 2 per cent., as losses are paid at the rate of 98 per cent., . . . . .	161 61
	\$7,918 99
The sum insured is \$13,500; the property at risk, if the last opinion should prevail, was \$8080.60;—consequently Mr. Yard's property was overinsured in the sum of \$5419.40, and on which he is entitled to a return premium of \$14 and 25 cents per cent., being, . . . . .	772 26
	\$8,691 25

Therefore, if \$13,500 being subject to pay \$8691.25, each \$100 is answerable for \$64.37.

As in the valuation of 20 cts. per lb., are comprehended not only the first cost and shipping charges, but also the premium of insurance and abatement (of 2 per cent., and brokerage of  $\frac{1}{2}$  per cent.), it follows that this deduction of the whole sum insured by the Ins. Co. of the State of Pennsylvania is proper."

\* \* The British government in 1794 authorized "the capture of vessels, with cargoes, the produce of a French West India island, on a direct voyage from a colonial port of lading to a port in Europe." In the case of the *Polly*, 1800, Sir William Scott had held that an American had an undoubted right to import the produce of Spanish colonies for his own use into his own country, and after he had so imported it *in good faith* was at liberty to carry it on into the general commerce of Europe, and accordingly decreed restoration of a vessel and cargo from Massachusetts to Spain, part of cargo being produce of a Spanish colony. American underwriters misjudged the scope of this decision, and a large trade followed with the colonies of France and Spain with the *original object* of reshipment to European ports of colonial produce. In the case of the *Essex* it was held that the landing of the goods and payment of the duties were not *alone* decisive of the legality of the voyage, which might be substantially a continuous colonial voyage. Such unexpected judgment of the Lords of Appeals was a disaster, having as its immediate consequence the capture and condemnation of about 150 American vessels.

Invoice of the cargo on board the ship *Hibberts*, of London, John Haines master, bound for New York, and consigned to Mr. Henry Hill, jun., merchant there, by Felix Crucet, on account and risque of the owners, underwriters, or others in England, or those who may be concerned in said ship and cargo.

The *Hibberts*, sailing on the voyage insured, was captured off Sandy Hook and taken into Halifax, where the vessel was claimed by the captain for Crucet; but by the decree of the Vice-Admiralty Court, made October 10, 1804, the claim was rejected, and the judge "pronounced the ship and cargo to be the property of British subjects, recaptured by his majesty's ship of war, *Leander*, and decreed the said ship and cargo to be restored to the original British owners, on payment to the recaptors of one-eighth part of the value thereof, and the claimant to pay costs." Claimant appealed, but the vessel and cargo were delivered, on security, to the agent of the original British owners, and sent to England.

When the ship was recaptured, it was notified to the Union, which agreed to pay a just proportion of the expense if recovering the property; but no actual abandonment, or offer to abandon, was made until November 2, when the decree of the vice-admiralty had been received by the insured.\* The case coming to trial in Circuit Court, the verdict was for the plaintiff.

Washington, J.: . . . . Upon the evidence thus admitted, Crucet appears clearly to have acquired a contingent interest in the property, but it was, at first, a question of great doubt with us whether it was an insurable interest; . . . . we doubted whether Crucet had anything in the property which he could abandon upon a loss. On reflection, however, we conclude that, upon an abandonment, the underwriters acquire all Crucet's rights and remedies against the British owners; and, as to the manner of insuring his interest, it is clear, that a person having a lien upon a cargo, may cover it by an insurance on goods. (4 Dallas, 421.)

The court held that the insured should communicate to the underwriter the nature of his interest in the subject insured, though it need not be specified in the policy; and, on this ground, a question of fact arises, for the consideration of the jury. If the insurance of the special interest, and not of the principal ownership, made a material difference in the risk, or would have altered the amount of the premium, and the fact was not sufficiently disclosed to the defendants, the omission would vacate the policy.†

In an order for insurance upon the schooner *Diana*, also upon freight thereof and cargo, written by the Union, it was declared that—

. . . . . the assured is not to abandon, if she cannot enter the Cape from blockade or other cause, but liberty is given to proceed to some other port.

The risk insured was "at and from New York to Cape Francois, with liberty to proceed to another port, should Cape Francois be blockaded, and the vessel prevented entering that port from that or any other cause, and at and from thence back to New York." Cape Francois was blockaded upon the arrival of the *Diana* off the island of St. Domingo, and the vessel was not

\* The court was reminded, while depriving Crucet of his lien, that Spain had not become a party to the then existing war between Great Britain and France.

† Of similar general tenor as to non-communication of material fact were *Vale vs. Phoenix Ins. Co.* (1 Washington, C. C., 283); *Johnson vs. Phoenix Ins. Co.* (*Id.* 378); *Kohne vs. Ins. Co. of North America*, (*Id.* 93, 158; 6 Binney, 219.) In the last-named case (continuity of voyage from Spanish colony to Spain), cocoa, tobacco, indigo, etc., purchased at La Guayra and Porto Cabello had been carried to Charleston, S.C., where they remained in the ship, duties bonded and vessel cleared for Port Passage, in Spain, and put into Newport for repairs, cargo insured from Newport "warranted the property of insured, a citizen of the United States." The non-landed cargo was captured and condemned by the British. Held that insured ought to have informed insurer of the non-landing, and that the circumstances relieved the insurers of the need of inquiry as to such fact.



permitted to enter any port in the island, nor to go to Cuba, whither the captain was desirous of proceeding, but directed to proceed to Kingston, Jamaica, where the captain decided to land and sell the cargo. The *Diana* had sailed under instructions to steer towards the Bite of Leogane, and to enter Port au Prince or some other port in the Bite, if prevented by blockade from entering Cape Francois. With another cargo, purchased with the proceeds of the sale at Kingston, the *Diana* returned to New York, and the insured abandoned the cargo and freight to the insuring corporation. Action was instituted to recover as for total loss, on the ground that the vessel had been forced, against the express desire of the captain, to proceed to a particular point, in exclusion of every other. The court charged the jury that the law was clearly with the claimant, and verdict was given in his favor for the goods and freight at the value insured, less the proceeds of the homeward investment. (1 Washington, C. C., 382; 4 Dallas, 417.)

In another action in the Circuit Court (*Snell et al. vs. The Delaware Insurance Company*) covenant upon an open policy for \$2,500 @ 10 per cent., Jamaica to New York, the question was in relation to the value to be indemnified when the vessel insured had been purchased at a sale upon capture and condemnation. Held, that the insured was entitled to prove and recover the actual value at the time the vessel was insured. (1 Washington, C. C., 509; 4 Dallas, 430.)

In the case of the schooner *Little Nell*, underwritten to the amount of \$750, by Samuel Gatliff, in 1799, at and from Philadelphia to Havana, captured, libelled, regularly acquitted and abandoned, the Supreme Court held, this year, that the vessel remaining in the custody of the captors at the time of the abandonment without evidence of any fault or neglect on the part of the captain or owner, the insured's right to abandon was not impaired by the decree of acquittal, and he was entitled to recover for total loss.\* (4 Dallas, 446.)

A local shipping practice, called freight advanced, was a general and reputable usage in Philadelphia commerce, but such advance payment as an insurable interest had not been adjudicated. Mr. Sansom, having purchased three-eighths of the tonnage of the ship *Richmond* for a voyage, at the price of \$10,837.50, effected an insurance with Mr. Ball, personal underwriter, and others, Philadelphia to Batavia and back, rate 20 per cent., to return 5 per cent. if the ship proceeds only to Batavia and back to Philadelphia, and no loss happens, "on freight advanced here, and which by agreement is valued at \$13,500"; no average loss less than 5 per cent. to be paid, unless general. On return from Batavia the *Richmond* was captured by the French, and, being recaptured by the British, was taken into Martinique, libelled for salvage, and one-half of the full value of the ship and cargo was decreed to the recaptors, and the claimants charged with all costs. By agreement between the captain

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\* *Rhinelanders vs. The Insurance Company of the State of Pennsylvania*, was argued in the Supreme Court of the United States, at Washington, in February term, 1807, upon a writ of error from the Circuit Court of the Pennsylvania district. The opinion of the court was that in the case of neutral, as well as of belligerent property, the insured can in law abandon and claim for a total loss when deprived of possession of the property. (4 Cranch, 29.)



and the supercargo, on the one hand, and the recaptors on the other, one-half of the cargo was specifically delivered to the latter, and £2,750 fixed for the salvage on the ship, which was paid by a draft on the owners at Philadelphia, secured by an hypothecation. Suit was brought to recover an average loss, and the case being submitted for the opinion of the court, two questions were discussed: 1. Whether the subject described in the policy was an insurable interest. 2. Whether, under all the circumstances of the case, the insurers were liable for a general average. Both questions (Supreme Court) were decided in the affirmative. (4 Dallas, 459.)

Freight insured in the Insurance Company of North America, was on trial before the chief justice, at Nisi Prius, in July, 1806; vessel had sailed July 7, 1799, from Philadelphia to Surinam, when Surinam was in possession of the Dutch, and upon arrival at the river of Surinam, the colony of Surinam had been in possession of the English forces about twenty days. The cargo was tendered at the town of Paramanto, but the collector of customs there refused to permit any article to be landed, excepting the provisions—about one-eighth of the cargo—and vessel and cargo returned to Philadelphia. The insured, Morgan & Price, thereupon abandoned and claimed for total loss of freight. Held, that the freight was earned, and therefore there was neither partial nor total loss under the policy. (4 Dallas, 455.)

In the March term, 1806, of the Supreme Court of the State, Tilghman, C. J., said: "On the whole case the plaintiffs [Donath & Co.] are entitled to recover for a partial loss, and a return premium with  $7\frac{1}{2}$  per cent. interest from the commencement of the action, and no longer, as they claimed for a total loss, and put defendants [the Insurance Company of North America] to the trouble and expense of defending."

In this case the plaintiffs were in advance for money lent, and goods delivered, to Don Alvarez Calderon, king's attorney in the island of Cuba, according to their account stated, including commissions and premium of insurance to the amount of \$13,750; and addressed to the company orders for insurance on goods to Havana—the personal effects, not merchandise, of Calderon, valued at \$18,733—for \$13,750, at the rate of 20 per cent. premium. Such effects were first laden on the schooner *Daphne*, and then transferred to the brig *Currier*. Previous to the orders—one insuring on board the *Daphne*, the other changing to the *Currier*—Calderon contracted with Donath & Co. to make the insurance; power to recover being vested in Joseph Donath & Co., and as covering \$2,000 advanced by Samuel Dutilh. The goods were consigned for Don Calderon to Peter Blain, or his assigns, at Havana. The insurance was also to cover the return cargo to be consigned by Calderon to Donath & Co., and if it consisted in bills of exchange, and not goods, a return of  $7\frac{1}{2}$  per cent. should be made. Calderon having passports and protections from the British, French, and Spanish ministers, the same being duly registered at Philadelphia, accompanied the goods. July 31, 1799, on the voyage to Havana, the *Currier* was captured by a British privateer and carried to New Providence, where brig and cargo, excepting the goods named in the policy, were condemned.

Upon petition of Calderon, all his goods, excepting a trunk which had been lost after capture, were returned to him, and were by him carried to Havana, but never delivered to Blain. Donath & Co. abandoned the property and claimed as for total loss, on the ground that the capture took away their possession of the property, and with it their lien for advances, etc.; that the restitution to Calderon was not a restitution to them; and that, as there had been no risk of a return voyage, they were entitled to a return premium of  $7\frac{1}{2}$  per cent. The Supreme Court ruled that the plaintiffs were merely agents of Don Calderon, and that Calderon, the principal, having accepted the goods saved, Donath & Co. were entitled to recover only for the goods actually lost; that the contract contemplated two distinct ventures, an outward cargo and a return cargo, and as there had been no return cargo, plaintiffs were entitled (Yeates, J., dissenting) to a return premium of the  $7\frac{1}{2}$  per cent. stated.

Judgment for plaintiffs, and the parties were to calculate the quantum. (4 Dallas, 463.)

Despite of the aggressions of the European belligerents, the arrivals and clearances at the port were increasing, and a large proportion of the risks assumed by the corporate and personal underwriters of the city were upon vessels and cargoes belonging to other ports. The hazard besetting the neutral bottom and cargo was great, but "subject to average." With amount written declining, there was more demand upon the underwriting capital as safeguard in the emergency, and in the fall of 1806 another association appeared, proposing to write upon the various casualties or occurrences recognized as subjects of insurance, in connection with the predominant maritime risks. This notice appeared November 15:—

#### MARINE AND FIRE INSURANCE CO.

The office of this company will be opened on Monday next the 17th instant, at their house, No. 121 South Third street, opposite the New Exchange Coffee House, where they will receive applications for all kinds of Marine Insurance—all kinds of insurance on the Transportation of Goods, Wares and Merchandizes—all kinds of Insurance against Fire in Town or Country, in this State, or any other of the United States, and Insurances upon Life or Lives, by way of tontine, or otherwise.

JOHN LEAMY, President.

Canal communication, direct or intermediate, between the city and other cities and counties had for some years engaged the attention of the trading community and the legislature, and the act to incorporate The Delaware and Schuylkill Canal Navigation Company was approved April 10, 1792. In the insurances contemplated by the Marine and Fire association, wagon transportation was comprehended.

In the Circuit Court this year it was held that though by the custom of Philadelphia, with an order given to an agent to insure \$12,000 the agent could insure a greater sum to cover the subjects insured, by the custom he could not insure to cover the premium in the same policy with that to cover the value. (1 Washington, C. C. R., 317.)

In the same court, April term, there was an action on two policies, one on vessel, valued, the other on cargo, open; voyage from New York to Gibraltar,

with vessel captured and carried into Algeziras. Cargo was not condemned, but in order for the vessel to sail with the cargo, security was required that it would not be carried to a British port in the Mediterranean. The supercargo, therefore, sold the cargo, took another on freight, sailed for New York and the vessel was lost. Held:—

The seizure and carrying into Algeziras, and the security required as to the cargo, was a complete destruction of the voyage and authorized abandonment of the cargo.

The sale of the cargo by the supercargo under the circumstances was proper.

Insured may have a reasonable time after notice of damage to determine whether he will abandon or not.

The refusal to give a deed of cession of the cargo, unless defendants would accept the abandonment of the vessel, insured in another policy did not vacate the abandonment. A deed of cession was not necessary.

The vessel not having been detained with a view to condemnation, the insured could not recover for a total loss.

The insured, by refusing to abandon the vessel at the time he abandoned the cargo, lost his right to do so and could not regain it.

Expenses incurred by the detention of the vessel at Algeziras were subjects of general average; but her repairs were entirely chargeable to the vessel, the cargo having been previously landed. Repairs made necessary by any risks insured against must be paid by the underwriters.

The underwriter is entitled to all the proceeds of the thing abandoned, and all profits arising from an investment of the same. (1 Washington, C. C. R., 400.)

The sea troubles grew with the conquests of Napoleon, and he, after entering the Prussian capital in triumph, issued from Berlin, November 21, 1806, a decree declaring the British islands in a state of blockade, forbidding all correspondence or trade with them, defining all articles of British manufacture or produce as contraband, and the property of all British subjects as lawful prize of war. The Berlin decree was in retaliation of British orders in council declaring the blockade of the coast of Europe from Elbe to Brest. Britain replied to the Berlin decree by orders of January 7, 1807, prohibiting all coast trade with France. In December previous, the British government had concluded and ratified a treaty of amity, commerce and navigation with the American plenipotentiary in London, but President Jefferson refused to ratify it on the part of the United States.

Still, with all the obstructions, apprehensions and disquiet such prohibitions brought to the shores of America, the commerce of Philadelphia, as a whole, showed no decline, and with a tendency among part of the insurers to shrink from the accumulating jeopardies, the spirit of adventure led others to step into the breach. Organization of another association called The United States Insurance Company (Israel Pleasants, president), soon followed that of the Marine and Fire, with the former, like the latter, having a common capital stock.

Brokers' insurance offices, as they had been before the introduction of corporate marine insurance, still continued; among them, in the first decade of the nineteenth century, were those of John Donaldson and John Taylor, N. & J. Frazier, Shoemaker & Berrett, and Robert E. Hobart. In January, 1807, the following circular appeared:—



PHILADELPHIA, 1 mo., 19, 1807.

Respected Friends,

I TAKE the liberty of informing you, that I have opened an INSURANCE OFFICE, at No. 121, Chestnut Street, and shall also attend every day, at the south-east room of the Coffee House, from twelve to two o'clock; in the evening, from six till eight: at either of which places I shall be much obliged by your orders.

The peculiar situation in which I stand, makes it necessary for the well conducting of the business, to establish the following rules and conditions, which I trust will give satisfaction, and be readily acquiesced in, and is approved by counsel as sufficient for the security of all persons concerned.

All insurances must be made on a written order, on which the following condition shall be printed.

*ALL premiums at this office, if under fifty dollars, to be paid in cash; larger sums to be secured by an endorsed note, to the satisfaction of the broker, (payable at the several terms specified below,) within three days after notice given of the insurance being effected, in default of which, the policy to be cancelled and the assured to forfeit one per cent. on the amount insured.*

Losses and return premiums shall be adjusted immediately after the vouchers are produced, and collected and paid agreeably to usage.

The notes and money received for premiums, being the property of the assurers, and only held by me as a trust for their use, an account shall be opened in one of the banks in my name as trustee, in which the whole shall be deposited, and the book in which they are entered kept open to the inspection of the underwriters at their pleasure; and no money shall be drawn for my private use but at the time of the quarterly settlements, and then not to exceed the amount of the regular emoluments of the office.

Accounts shall be rendered every three months to the underwriters, and I do not doubt by these means to pay each one whatever balance of cash may then be due him.

The price of the policy and fees of the office to be as customary.

Hoping this plan may meet your approbation, and requesting a share of your support and patronage,

I am,

Your respectful friend,

JACOB SHOEMAKER.

Here was the expression of a business established in method and unfused by external disturbance, and despite of French decrees and British orders in council, the following were the average prices of insurance stocks in the third week of March, 1807:—

Insurance Co. of North America, . . . \$12	Philadelphia, . . . . . \$172½
“ “ of the State of Penn'a, 185	Delaware, . . . . . 70
Union, . . . . . 71½	Marine and Fire, . . . . . 35
Phoenix, . . . . . 114	United States, . . . . . 21½

The capital of none of these, excepting the Insurance Company of North America, was fully paid up. A call was made in June by the Marine and Fire Association for an addition to the cash capital of \$25 per share.

In December term, 1802, the Supreme Court of the State decided that expenses incurred on a vessel for seamen's wages, provisions, and extra pilotage during an embargo, are recoverable by the insured as a partial loss on freight; freight having been received, and vessel completing her voyage. (4 Dallas, 247.) Then, in *Kingston vs. Girard*, the opinion of the court in *Jones et al. vs. The Insurance Company of North America* (the forecited case) had been “strengthened by mature reflection,” and it was here decided that the extra expenses for wages, provisions, etc., during a capture and detention, are not a subject of general average, but a charge on the freight. (4 Dallas, 274.) The cause of *Jones et al.* against the insurance company being removed to the High Court of Errors, upon the second argument, July term, 1807, the judgment

below was reversed, it being held that seamen's wages and expenses incurred for provisions during an embargo are general average, and therefore cannot be recovered as partial loss on freight. Young, P. J., for affirmation. (2 Binney, 547.)

Orders in council were issued November 11, 1807, by the British government, forbidding any neutral vessel to enter any French port until it had previously stopped at some British port and paid a duty. Napoleon's Milan decree followed, confiscating every vessel which should submit to British search, or pay any duties whatever to Great Britain.

These usurpations necessarily brought American commerce into yet more disastrous collision with the two belligerents. The underwriters of the city experienced in the growth of aggression had conferred together to concert defensive measures, and at a meeting of the Presidents of the Public Insurance Companies, November 10, it was agreed that the following conditions be added to the policies to be by them thereafter respectively signed:—

It being specially agreed, That No abandonment shall be binding on the Assurers, in case of capture or detention, until sixty days shall have expired after advice shall be received of the property being libelled, unless sooner condemned—nor on account of embargo, unless detained at least four calendar months—nor by reason of seizure, or detention in port, for having been carried into a British port, or going in from other necessity—nor on account of the port of destination being blockaded, but in such cases the property shall be at the risk of the Assurers to another port.

And it is further agreed, That the Assurers shall not be chargeable, with the wages of the officers, or crews, for their subsistence during detention, on account of capture, embargo, or quarantine.

In December, before news was received of the orders in council of November, or the Milan decree, Congress, on the recommendation of President Jefferson, laid an embargo prohibiting all vessels from sailing to foreign ports, ordering vessels abroad to return home, and restricting coastwise trade. The embargo was laid December 22, and a vessel sailing the day previous was detained by head winds. She was arrested and prevented from proceeding, returned to port, and an abandonment was offered and not accepted. It was held by the Circuit Court in such case (*Odlin vs. The Insurance Company of the State of Pennsylvania*), that the insured was entitled to recover for total loss, as a domestic embargo amounted to an "arrest, restraint or detainment" by the government, and as the policy was general, a domestic embargo, equally with a foreign one, was a peril within its terms, and a contract to indemnify against loss by an embargo which the government of the parties may at any time propose is not against the policy of the law. (2 Washington, C. C. R., 312.)

"Grass was beginning to grow on the wharves and the ships to rot at their moorings" in the spring of 1808. Means were adopted for partial relief of the distressed seamen, many of whom left the country to engage in the marine of ports beyond the United States. Infractions of the great interdiction were frequent, most in New England, where the partisan support upholding it was weakest. With the prostration of the shipping interest, industry and general trade were more or less affected, for "all depended upon commerce." In March, Napoleon issued another decree ordering the seizure of all American



vessels abroad, because "none could lawfully be abroad since the passage of the embargo act."

Necessarily there was almost total cessation of marine insurance. The *policy* could not insure "illicit or prohibited trade," even with the expressed *exemption* from loss thereby stricken out. But the stagnation did not embarrass the offices, though it made stockholders despondent. The embargo, in the nature of things, could be of but short duration, and would grow less in effect the longer its repeal was delayed.

An agency of the Lancaster and Susquehanna Insurance Company was opened in the city in March, in charge of Joseph Carson and Joseph Smith. This company issued both fire and marine policies.

In July the shares of the companies were selling at the following prices the apparent exceptions to the decline from March of the previous year (*ante* 80) was owing to additional payments on the capitals.

Insurance Co. of North America, . . . . .	\$7	—10 p'd in.	Philadelphia, . . . . .	\$158	
Insurance Co. of the State of Pennsylvania, . . .	180		Delaware, . . . . .	35—70	p'd.
Union, . . . . .	72½	—60 p'd in.	Marine and Fire, . . . .	50—60	"
Phoenix, . . . . .	80	—80 " "	United States, . . . . .	40—50	"

In correspondence between Israel Pleasants, president of the United States Insurance Company, and Horace Binney, counsel of the company, the following question and answer occurred this year:—

[Mr. Pleasants, August 17.] In case of being turned off from the Ports of destination, as has been the case with several of the vessels alluded to, is the Captain bound to return with his Cargo and Ship to the Port of departure? and has he the right to enter an intermediate or neighboring Port, then end the Voyage by landing the Cargo for account of whom it may concern?

[Mr. Binney, August 23.] I think if the Captain has acted fairly in leaving the goods at the nearest convenient port, there would be little chance of success in such an action; for I cannot see that he is bound to bring them back to the port of departure; there is no such requisition in the Bill of Lading, it is no part of his general duty, he has already earned his freight by being ready to deliver the goods at the port of destination, it is in legal construction the owner's fault that the goods have not been delivered there, and I think therefore the Captain cannot be subjected to a duty so severe after the whole of his own contract is performed without any actual or constructive neglect.

In local practice, loans on *respondentia* had been combined with insurance. In the Supreme Court, December term, 1808, award of referees was confirmed in a controversy which had arisen as to average loss under the associated relations of insurance premium and maritime interest. The plaintiff, Gibbons, had borrowed on *respondentia* \$30,000 upon shipments of specie, goods, wares and merchandises, laden or to be laden, from Newcastle, Delaware, to Canton, and at and from thence to Philadelphia. The bond obligated the plaintiff, in case the voyage should be performed, to pay the principal sum, together with \$583.15 per calendar month; and it contained the following clause:—

It being first declared to be the mutual understanding and agreement of the parties to this contract, that the lender shall be liable to average, and entitled to the benefit of salvage, in the same manner to all intents and purposes as underwriters on a policy of insurance, according to the usages and practices of the city of Philadelphia.

The ship, the *Triton*, was chartered by Nicklin and Griffith, of Philadelphia, at a freight of \$40,000, the freighters to pay the ship's expenses, and to deduct



them, together with all other sums advanced on the ship's account, out of the freight. To these expenses and advances the shipment of the plaintiff contributed at Canton; and on the homeward passage, his goods, consisting of saltpetre and teas, suffered sea damage, viz., saltpetre 20.90 per cent., teas 2.46 per cent. Upon what amount the average should be calculated, was a question submitted to arbitration under a rule of court. The referees divided the monthly payment of \$583.15 as follows:—

Sum loaned, . . . . .	30,000	
1 per ct. per month, 12 mos, . . . . .	3,600	
	<u>33,600</u>	
Premium of ins. 9 pr ct.		
Abatement 2 pr ct.		
Commissions $\frac{1}{2}$ to cover . . . . .	4,366 10	
9 per cent. on . . . . .	\$37,966 10 is	3,416 94
	Interest	<u>3,600</u>
		\$7,016 94

The sum of \$7016.94 for 12 mos is \$584.74 per month, nearly the amount of the monthly payment on the bond.

Then treating policy as open:—

Cost of saltpetre,		
2000 peculs at \$11, . . . . .	\$22,000	
Charges per invoice, . . . . .	2,174	
Commissions, 3 per ct., . . . . .	725 22	
	<u>\$24,899 22</u>	
Premium 9 per cent. . . . .		
Abatement 2 per cent.		
Commissions $\frac{1}{2}$ per cent. to cover . . . . .	3,235 47	
20 $\frac{90}{100}$ pr ct. on . . . . .	\$28,134 69	gives \$5,880 15
Cost of teas,		
120 qr. chests H. Skin, . . . . .	2,192 62	
Paper for marking, . . . . .	60	
Commissions 3 per cent., . . . . .	65 79	
	<u>2,259 01</u>	
Premium, &c., to cover . . . . .	293 54	
2 $\frac{46}{100}$ pr ct. on . . . . .	\$2,552 55	gives \$62 79
		\$5,942 94
Deduct two per cent., . . . . .		<u>118 86</u>
Amount of award, . . . . .		\$5,824 08

The plaintiff filing two exceptions to such award, claimed a proportion of the amount of loan and interest when the Triton returned, the special clause in the bond making it a valued policy, the amount of loan and interest being the value. Therefore,—

(1). Cost of saltpetre, charges and comm's, . . . . .	\$24,899 22
" " teas, . . . . .	2,259 01
	<u>27,158 23</u>
20 $\frac{90}{100}$ pr ct. on 24,899.22 is . . . . .	\$5,203 94
2 $\frac{46}{100}$ pr ct. on 2,259.01 is . . . . .	55 45
	<u>\$5,259 39</u>

Whole amount of loan and marine interest \$38,747.25. Then if \$27,158.23 lose \$5,259.39, \$38,747.25 lose \$7,503.77 the amount claimed.

(2). That even supposing the calculation of the referees to have been founded on a right principle, yet, as the plaintiff had paid at Canton a portion of the freight out and

home, which was deducted from the money shipped, the referees should have added this to the cost and charges of the goods, and so settled the average upon a larger sum.

Tilghman, C. J.: . . . . . This contract, partaking of the nature both of respondentia and insurance, appears to have been lately introduced into this city. . . . . The court must decide upon the matter as it appears on the face of the bond; for the referees determined that there was no proof of any extraneous facts to alter the bond, and nothing has been shown to us which could induce us to say that they were wrong in that determination. . . . . There is nothing in the bond which authorizes us to consider this as a valued policy. All policies are considered as open unless the contrary is expressed. Then taking it as an open policy, the average is to be calculated on the cost and charges of the goods and the premium of insurance. There is no ground for taking into consideration the marine interest which the plaintiffs paid for the loan; as well might the assured, in common cases of insurance, charge the underwriters with usurious interest paid by him for the money with which he purchased the goods. This interest is not the cost of the *goods*, but the cost of the *money* with which the insurer has nothing to do.

The case then is narrowed to this point, whether the plaintiff had a right to include the freight, as part of the cost and charges of the cargo. Freight in its nature seems distinct from those costs and charges. It is the price paid for carriage of the goods, and in case of total loss it is not payable at all. . . . . It appears to me, therefore, that the referees were right in excluding the freight. My opinion on the whole is, that the exceptions are not good, and that the award be confirmed. (1 Binney, 404.)

The embargo continuing during 1808, the Insurance Company of North America received in the year but \$5,843.55 in marine premiums, and paid for marine losses \$108,568.93.

The United States Circuit Court decided, in 1808, that while loss more than 50 per cent. of the total may, under circumstances, become a technical total loss, it cannot, if a distinct part of the cargo, be destroyed, unless the voyage is thereby broken up or rendered unworthy of being prosecuted. (2 Washington, C. C. R., 175.) Also, that if one merchant, in the habit of effecting assurances for another, neglects to have the same done when ordered, he himself takes the risk, is answerable for the loss, and is entitled to the premium. (*Id.* 203.) Further, a captain was instructed by the owners: "If you can ascertain and obtain permission to go to Hamburg from the cruising vessel at the entrance of the Eyder, you will proceed; but on no account attempt it unless you are well assured that the blockade of the Elbe is raised" The vessel was captured and condemned. Held, if the instructions to the master were contrary to the rules established by the English courts of admiralty, they should have been communicated to the insurers, notwithstanding such rules were not authorized by the law of nations; but it was also held that these instructions were not contrary to those rules. (*Id.* 243.) The smallest deviation from the usual course of voyage, without justifiable necessity, discharges the underwriters, although the loss was not the immediate consequence of the deviation. (*Id.* 254.)

It is the uniform rule in estimating the loss on a vessel not heard of, and therefore considered lost, to calculate interest after twelve months and thirty days from the last time she was heard from. (*Id.* 279.)

In respect to insurance on the freight of a vessel, which returned to Philadelphia simply on the captain being warned by a British ship not to proceed, it was held that the actual existence of some blockading force, and only reasonable doubt prevailing that there is danger from it, does not justify a

deviation from a voyage insured. Vessel should proceed on the voyage until danger of actual loss is rendered manifest. (*Id.* 300.)

Repeal of the embargo act going into effect March 1, 1809, commerce was freed from its prohibitions, but the circumstances in which it originated had not been all removed. Under act of March 17, 1809, the Marine and Fire Association was incorporated as the Marine Insurance Company; capital \$300,000, shares \$100 each; charter to expire in 1827.

An action for the recovery of \$20,000, underwritten by the Union Insurance Company, on goods upon the brig Pennsylvania, at and from Philadelphia to Smyrna, etc., had relation to a capture, an apparent rescue, and a second capture, and the brig had been condemned by the British Court of Vice-Admiralty at Malta for being "rescued by the captain and crew from the hands or possession of the first captors."

At Nisi Prius. Tilghman, C. J.: . . . . . The plaintiff's declaration contains two counts. In the *first*, they declare on a loss by capture; in the *second*, on a loss by the barratry of the captain and mariners. . . . . We have the opinion of Judge Butler, that the act of a neutral master, which forfeits his neutrality, is barratry. It has not, I think, been contended by the defendant's counsel, that a rescue is not unlawful. On that point I agree with the opinion of Judge Washington, in *Doederer vs. The Delaware Insurance Company*,\* where he thus expresses himself; "that the attempt to rescue the vessel was unlawful, and afforded a ground for condemnation, is proved by the opinion of the best informed jurists, and has received the sanction of the common Law courts, in a variety of instances;" he adds, "that this doctrine was admitted by the counsel of the assured." Upon the whole, my opinion is (formed, indeed, during the course of this trial, and, therefore, not so much to be relied on as if after an argument in banc) that if a rescue was committed, it was an act of barratry. If, therefore, the jury should find for the defendants on the first count, my advice to them is to find for the plaintiffs on the second count. On the contrary, if they find for the plaintiffs on the first count, then, there having been no rescue, there was no barratry, and in that case the verdict on the second count must be for the defendants.

The jury found for the plaintiffs on the first count, and the defendants acquiesced in the verdict. (2 Binney, 574.)

Congress meeting in May, 1809, continued commercial non-intercourse with Great Britain and France, qualified by a purpose to invite one of the belligerents to open trade with the United States at the expense of the other.

This year was published Joseph Reed Ingersoll's translation from Westerveen's Dutch edition (Amsterdam, 1708) of the *Notabilia* of Francesco Rocci (Roccus). The division on Insurance contained three references to quotations of the notes of Roccus in *Lex Mercatoria Americana*.†

Danish cruisers, or vessels sailing as such, had been capturing American vessels, and such captures now amounted in value to about \$1,500,000. A meeting of merchants and underwriters interested was held in the city October 19. This committee was appointed to prepare a memorial to Congress: Thomas Fitzsimons, Henry Pratt, Wm. Jones, Stephen Girard and Charles Pleasants.

A suit had been brought against the Union Insurance Company under these circumstances: A merchant of the city who expected a remittance in specie, effected an insurance on specie from Cape St. Francois to Philadelphia in his

\* 2 Washington, C. C., 61. Here captain thought war had been declared, when it had not been.

† *Lex Mercatoria Americana*: An Enquiry into the Law Merchant of the United States (one volume), by George Caines, New York, 1802.



own name and in the names of all persons concerned, but with the intention of covering only his own property. There was a total loss, and the insurance was paid; but, discovering that only \$1,152 were his own property, he returned the balance to the company. The action was brought by persons who had shipped specie, and sought to recover the amount of their loss, which was within the sum insured. The Circuit Court held that there was no insurance on their account. Plaintiffs were engaged in trade in a belligerent country, and the specie was "warranted neutral property." (2 Washington, C. C. R., 391.)

The association called The United States Insurance Company, becoming incorporated March 10, 1810, the sixth was added to the Philadelphia marine insurance corporations originating in the first decade of the nineteenth century—capital was \$400,000, in shares of \$50 each.

## CHAPTER VII.

*Measure of Partial Loss in Valued Policies—Opening of Valued Policies, Particular Average Statement—Premiums paid by Broker a Matter between Broker and Underwriter—Violation of Neutrality with Neutral Goods part Cargo with Belligerent Property—Nationality of Owner Test of Nationality of Vessel—Surveys of Damaged Ships and Cargoes—Unsoundness through Accident not discharging the Underwriters, Condemnation for Unsoundness and Underwriter's Stipulated Non-Liability—Sale upon Surveyors' Report of Unsoundness without Condemnation—Prohibition of Foreign (Non-American) Companies in Pennsylvania—Neglect of Agent to insure, Insurance by the Agent—United States Bank Stock as an Insurance Asset—Commerce of the Port of Philadelphia, 1810—Abandonment between Acquittal and Restitution, too late—Personal Liability of Owner for General Average notwithstanding Abandonment—Invoice Prices and Expenses of Lading as Measure of Loss—Suspension of the Non-Importation Act—Proposed Clause as to Notes for Premium—Locations and Directors of the Philadelphia Insurance Corporations in 1811—Claim for Pro Rata Freight with Voyage broken up—Compulsory Deviation—Carrying Enemies' Goods as such—Hypothecation of Neutral Vessel to Belligerent—A Defective Bottomry—Opening of the War of 1812, Blockade—Condemnation as Ground for Total Loss—A British Interest falsifying Warranty of Neutrality—Contributory Payment for Jettisoned Goods precedent to Claim for Loss under Policy—Opinion not Fact in Representation—Blockade of Delaware and Chesapeake Bays—War Rates—Arrest, Prohibition to trade and New Voyage—An American Bottom not necessarily American built or registered—Neighboring Port—Acceptance of Cargo at Intermediate Port—Lien on Policy in Possession by Agent paying Premium—John Donaldson—Whoever defectively executes Order for Insurance is Answerable for Loss—Excusable Deviations—Absolute Total Loss Insurance—Contingent Return Cargo and the Non-Importation Act—Renewal of Charters—Neutral Rates, March, 1815—Peace, Ghent and Waterloo—Position of the Marine Companies at the Close of the War—Untimely Abandonment—Neutral Vessel and Contraband Cargo—Discontinuance of Personal Underwriting and one of the Latest Philadelphia Policies of Personal Underwriters. (1810-1815.)*

HAMBURG usages had tended to establish nominally the rule that partial loss opens the valued policy. So, with sea-damaged goods reaching a port, prices at such port became the measure named of the damage, and not the extent of depreciation in substance. The method, however, was only a short mercantile way to determine the quantum of damage. In case of total loss—destruction in kind—the sum named in the policy was the measure of the underwriter's loss without question; but with partial loss in kind, there was a question as to whether ratio to *such* total loss should control the partial loss adjustments, or whether the partial loss should be paid in full within the policy sum at the market standard. We take the instance of two hogsheads of sugar in different vessels, each hogshead valued at \$150 in each policy, as reaching two different ports of delivery, in one of which the current price was above the policy value,

and the other below it; one hogshead being impaired in specie by the damage one-fifth, the other one-half:—

	PRICES AT PORTS OF DELIVERY.		Adjustment.	Loss by Market Standard.
	Sound.	Damaged.		
Policy value, \$150, . . . . .	\$250 100	\$200 50	\$30 75	\$50 50
CONVERSELY:—				
“ “ “	100	80	30	20
	250	125	75	125

By Hamburg practice, sugar worth in the market \$250 sound, but worth as damaged \$50, the sum of \$120 would be paid by the underwriter with loss by the market standard \$200 and insurance \$150; and so the policy valuation would be sustained. Such settlement had legal and mercantile sanction, and was technically accurate.\*

In a suit by Shoemaker & Berrett, to recover \$900 advanced as premium for insurance effected by them for the defendant, Stephen Girard and Joseph Ball were appointed referees by the court, and they chose James C. Fisher as the third member of the reference. The referees reported as due to the plaintiffs \$153.28, and exceptions were filed.

Supreme Court, January term, 1810: Upon the examination of Mr. Ball, he stated:—

The claim for the entire amount of premium was made upon the ground that Shoemaker & Berrett had paid it to the underwriters, a fact which the referees did not consider, because, June 16, 1801, a month before the premium was due, a letter prepared by Shoemaker and signed by the defendant, Smith, was addressed to the plaintiffs, notifying them that the goods would not be shipped, and to apply to the underwriters to cancel the policies, upon paying a certain part of the premium, which included something for the short risk on the vessel. While it was the practice for the insured to give his note for the premium to the broker, and for the broker to pass the premium to the credit of the underwriter immediately on making insurance, yet it was not payable until the credit on the premium expired. The broker guaranteed the premium to the underwriters, for which he received five per cent., and when a return premium was demanded, the broker got the underwriters to endorse on the policy an order to return it.

Mr. Ball, continuing, said:—

It had been the practice about 28 years for the broker to guarantee the premium, and the broker, not the underwriters, usually brought the action for it. The referees thought it was the duty of the broker to obtain the order for a return, being for this purpose the agent of the insured, or at least to debit the underwriters after the notice received, and leave them and the insured to contest the matter between them. They therefore took into consideration what the underwriters ought to have returned, and what they were entitled to retain according to the practice in this city, for the short risk on the vessel, and allowed it to the plaintiffs.

\* As to opening of valued policy:—

There had been 112,000 lbs. of coffee, valued at 22 cents per lb., insured in the *Phoenix*, from which was to be deducted the prior insurance of \$12,000 in the *Philadelphia*. The prior policy being treated as open, covered so much of the coffee as \$12,000 would purchase at prime cost, and the policy of the *Phoenix* attached upon the balance at a valuation of 22 cents per lb. (2 Washington, C. C. R., 89.)

Plaintiffs effected insurance in New York on a vessel valued at \$4,000, and afterwards with the Insurance Company of the State of Pennsylvania to same amount, valuing the vessel at \$6,000, not giving notice of prior insurance; a partial loss took place, and the court held that the second policy was liable for so much of the agreed value as was not covered by the first policy. (*Id.* 186.)

Plaintiffs were insured \$12,000 on the *Anna Maria*, from Cadiz to Antwerp, by a valued policy, and the vessel having put into Gibraltar in distress, the captain executed a bottomry bond, which was dated a few days before the policy was made, which had the provision as to prior insurance. The jury found the real value of the vessel to be \$15,000. Court held that the amount of the bottomry bond should be deducted from the real value as found by the jury. (3 Washington, C. C. R., 1.)



Tilghman, C. J.: The exceptions filed by the plaintiffs to the award of the arbitrators is founded upon a supposition that the broker is bound at all events to pay the premium to the underwriters, even though it is discovered before the time when it is payable, that it is a case in which no premium is due, because the risk never commenced. . . . This custom of the broker's guaranteeing the premium, in consideration of which he receives five per cent. from the underwriters, may be very convenient to both these parties; but the assured has nothing to do with it, and they have no right to throw an inconvenience on him for their own benefit. (2 Binney, 239.)

The Supreme Court was continuing to pass upon questions of neutrality and nationality in relation to warranty. In *Phoenix Insurance Company vs. Pratt et al.*, in error, it was held (loss by capture) that if the general agent of neutral principal covers belligerent property, though without the consent or knowledge of his principal, all of the property of his principal is liable to condemnation by the law of nations, notwithstanding it is plainly distinguished from the covered property by bills of lading and invoices on board; and if that property be warranted neutral, the underwriters are discharged, as either the warranty has not been performed or the risk has been increased by the agent of the insured. (2 Binney, 308.)

A policy had been executed upon the "good British brig called the John," . . . "against perils and dangers of the sea only," with risk "to end on capture"—premium 4 per cent. Vessel and cargo were totally lost upon a reef of rocks. Held, that "on the good British brig," as warranty, was satisfied *primâ facie* with the owner being a British subject, irrespective of his place of domicile. (2 Binney, 363.)

The surveys of damaged ships and cargoes at the port had, as a rule, been conducted with impartiality and capability, and the reports of the surveyors were received with confidence by the underwriters of the city and abroad. The following mode of procedure was adopted to determine the quantum of the damage inquired into:—

A writ issues upon application by the master, from the district court, directed to three persons, two of whom are masters of ships, and one a merchant, for a survey on ship and cargo "(taking to their assistance, any ship carpenter, or other tradesman, if they shall think it necessary) and to estimate the amount of damage, wastage, or loss, if any, which the said cargo, or any part thereof, may have sustained, and the occasion thereof." The hatches are accordingly examined, the discharge of the cargo takes place, and the injured packages marked. The consignee takes them home, when a more minute examination takes place, and the quantum of damage of each package being ascertained, an account of it is taken agreeably to original invoice, and signed by the consignee. The report thereon is made by the surveyors on oath or affirmation, and remains on record. A sale at auction is then ordered, of the damaged part, for account of the concerned: the proceeds whereof are credited in account, and the first cost and charges being deducted, the loss is ascertained.

Where the damage is deemed to arise from deficient dunnage, or from placing a perishable article in contact with dry goods, the vessel and owner are liable. In such cases, the consignee or owner may have an offer of the damaged part, at first cost and charges, but if not accepted, recourse is had, as before, to sale by auction.

When a ship is dismasted, or otherwise injured, by stress of weather, a special examination takes place of the protest and log book, and of the master and mariners on board, touching the disaster; and orders are issued for repairs. When these are completed, the bills are brought to the surveyors, who separate the charges incident to the disaster, from those resulting from the decay of the ship; and a report as in the former case is lodged in the office.

When a ship puts back in distress, and it becomes necessary to discharge the cargo, a writ is obtained for a survey, as in other cases; and after examination by the surveyors, their certificate issues to the custom-house, for a permit to discharge the cargo, if necessary.

An inquiry respecting the cause of the disaster, the order for repairs, the examination of the bills for the same, and report take place as before. (The Picture of Philadelphia, by Dr. James Mease, 1811, 69.)\*

A brig on return passage to Philadelphia from Cape Francois, November 11, 1801, sprang a leak, whereupon she put back to Cape Francois, and being found unfit to proceed, and that it would cost more to repair her than she was worth, she was sold at public auction for \$242.50. A policy was effected in Philadelphia (personal underwriters), December 11, 1801, at and from Cape Francois to Philadelphia, for \$600 upon the brig, valued at \$2,000. Policy contained this memorandum:—

If the above vessel, after a regular survey, should be condemned for being unsound or rotten, the underwriters shall not be bound to pay the subscriptions upon this policy.

Upon the return to Cape Francois after the cargo was taken out, and a survey being held, the surveyors reported that they had caused four streaks of plank to be taken from her waist, from stem to stern on both sides, and found that they were in a bad situation at the load water line, as well as the ribs and timbers, which had been eaten by rats, and were totally unfit to receive the nails for replacing the planks.

In an action on the policy, the cause was tried in 1808 at Nisi Prius, before the chief justice, and the jury found for the plaintiff \$721 damages. Held, that the survey and condemnation must show unsoundness from decay, and not from accident; therefore the clause was not a bar, if the unsoundness proceeded from the gnawing of rats—a leak occasioned by rats, without the neglect of the captain, being a peril within the policy. On the motion for a new trial it appeared that there were several more actions depending on the same policy, and the court was of opinion that it would be most conducive to justice to hold the present case under advisement till a trial was had in one of the other actions. (1 Binney, 592.)

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\* A warrant of survey issued by the Court of Vice-Admiralty in 1770 was as follows:—

OFFICE OF VICE ADMIRALTY } ss.  
OF PENNSYLVANIA.

{ L.S. }

Edward Shippen junior Esquire Judge of his Majesty's Court of Vice Admiralty of Pennsylvania To James Wharton William Wishart and Jesse Maris of the City of Philadelphia Merchants John Morrison & Anthony Clarkson of the same Place Coopers & Thomas Smith of the same Place Ship Master Greeting

Whereas the Brigantine called the Nancy whereof John Brice is Master lately arrived in this Port of Philadelphia from St Eustatia laden with Sugar Molasses & Cocoa & as it is suggested the Cargo on Board the said Brigantine has met with considerable Damage in her Voyage from St Eustatia aforesaid To the End therefore that Justice be duly administered to all Persons concerned therein & that the Damage sustained may be more truly known & ascertained These are by his Majesty's Authority to will & require you or any four of you forthwith diligently to view & survey the Cargo on Board the said Brigantine & examine the Damage acrued to the same whether thro' the Insufficiency of the said Brigantine bad Stowage or any Neglect of the said Master or his Mariners. And you are enjoined to make & return a true Report in the Premises into the Office of Vice Admiralty (together with this Warrant) on your respective Oaths or solemn Affirmations according to Law and Custom.

Given under the Seal of the said Office of Admiralty at Philadelphia this fifteenth Day of March in the tenth Year of his Majesty's Reign Annoque Domini 1770.

EDWARD SHIPPEN, JR.

(Return)

We the Subscribers appointed by the within warrent of Survey repaired on board the said Brigantine, and viewed the Cargo and were of Oppinion, the damage sustained was occasioned by the many Gales of Wind the Vessel met with on her passage, as set forth in the protest. Acco't of the Marks and Numbers of such as received. Damage at foot as Witness our hands this 22d of June 1770.

ANTHONY CLARKSON,  
JAS. WHARTON,  
THO. SMITH.

(Numbers of 14 hhds. molasses and one hhd. of rum.)



In an action upon a policy upon the brig *Fair American*, with like stipulation as to survey and rottenness, Tilghman, C. J., charged the jury (February, 1810): "If the condemnation is grounded partly on rottenness and partly on damage sustained by violence of storm, etc., the case is not within the contract."

The brig, sailing from Philadelphia, put back in consequence of a small leak; cargo was taken out, and the vessel was repaired, carpenters' bill alone being £254. She sailed again September 26, 1803, thirteen days after putting back, and on October 1, 16 and 24, she experienced violent gales, in the last of which she was laid upon her beam ends, and the crew cut away the mainmast and rigging, and discharged the deck load in order to save their lives. The brig, much strained, leaked excessively, having seldom less than five feet of water in the hold; but was able to make St. John's, in the island of Antigua, November 11, where, next day, the captain petitioned the Court of Admiralty for a warrant of survey, which was granted on the same day, directed to two merchants, two shipmasters, and two shipwrights in the usual form, and December 1, the surveyors made their report.\*

On the same day that the report was returned the judge of vice-admiralty decreed that the brig, her tackle, apparel, and furniture be sold, and she was accordingly broken up and sold. The jury found for plaintiffs, and motion for new trial was denied. (2 Binney, 394.)†

At the time now reached other forms of insurance than the marine had made their way to recognition and support, but had little attention given to them in comparison with the interest excited by marine writing, which was as yet the insurance *par excellence*, and as yet the marine insurer was the only "underwriter." State legislation in respect to insurance specially, had heretofore been limited to acts of incorporation; but a change began as a result of opening in the city an agency of a London fire insurance company. Of the

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\* This report was as follows:—

"In obedience to the foregoing warrant of survey, we whose names are hereunto subscribed, being all of the persons to whom the same is directed, did on the twelfth day of November last repair on board the brig *Fair American*, whereof Lambert Whillden was master, then lying at anchor in the harbor of St. John in this island Antigua, and having had the brig pumped entirely dry, we waited fifteen minutes, at the expiration of which time we sounded, and found that she had made six inches of water. That upon diligently viewing, searching, and examining into her state and condition, we found that her mainmast had been cut away five or six feet from the deck; that a timber head, and two quarterdeck stanchions on the starboard side, had been carried away; that the starboard pump was split by the falling of the mast; that the boat on the stern was stove; that the back part of the rudder was loose; that the main hatch was well secured, and the barrels in the hatchway were quite dry; and from the report of the said Lambert Whillden, the deck load had been thrown overboard. That from the quantity of water which she had, and did then make, we were induced to believe the cargo had received considerable damage; we therefore recommended that part of the cargo should be discharged, in order that we might take a further view of the vessel and cargo. That by the fourteenth day of the same month of November past, part of the cargo was accordingly discharged, and we again repaired on board the said brig *Fair American*, and upon inspecting the cargo, we found a great many of the barrels and half barrels very much damaged by the sea-water. We therefore directed the whole of the cargo to be landed, so that it may be carefully examined, to enable us to ascertain what further steps would be most eligible to be taken for the benefit of the parties interested. That on the twenty-fourth of the same month of November, we again repaired on board the said brig *Fair American*; and having ordered the ceiling to be taken off about the lower futtock-head, where the middle and lower futtocks met, from the main chains aft we found the timbers quite decayed. That the upper breasthook and wing transom was in the same decayed state. That the trunnels were started in many places, and generally very loose and rotten; and that the ceiling throughout was decayed and loose. We therefore were of opinion, that the said brig *Fair American* was unworthy of repair, and *unfit for sea*, and that it would be most to the advantage of the parties concerned, that she should be forthwith sold at public auction."

† Condemnation of a vessel, upon report of surveyors, that many of her timbers were unsound, etc., that it would cost more to repair her than she was worth, is not a condemnation which will excuse the underwriter from liability, under the clause which declares that if the vessel should be condemned as unsound or rotten, the underwriters should not be liable. (2 Washington, C. C. R., 152.)

Where a vessel has, upon report of survey on an order given by the American consul, been sold by the captain, without a regular condemnation, the loss cannot be made total; the assured being entitled to no more than the loss actually sustained. (*Id.* 375.)

It is sufficient on a question of seaworthiness if the vessel was fit to perform the voyage, insured as to ordinary perils. (*Id.* 480.)



three or four Philadelphia marine offices essaying each a fire department of their business, only the Insurance Company of North America could be regarded as continuing its fire branch when the new comer, rating more by London rules for premium than those of Philadelphia, was established to issue policies on goods and ships in harbor as well as on buildings. This agency made more evident that a diversified land and harbor risk was to be written against loss by fire, as well as against loss by fires at sea. The port was making an emporium, a new city fire insurance company was projected, and the rates of the agency of the foreign company—the Phœnix, of London—antagonized the local fire insurance interests. A letter addressed to the editor of Poulson's American Daily Advertiser, from Lancaster, the capital of the State, March 27, 1809, communicated the fact to the general public that “a bill is before the House to destroy the London Phœnix Insurance Office in your city.” The destruction of the Philadelphia agency of the foreign office was accomplished by the passage and approval of an act of March 10, 1810, containing these prohibitions and penalties:—

1. No body politic or corporate of any foreign State, kingdom or country, no company or copartnership of foreigners, by themselves or any agent or agents of such company or copartnership, and no person or persons, who is or are not a citizen or citizens of the United States, shall be insurers in any case within this State, against loss at sea, against loss by fire, upon any property within the same, upon inland transportation of any goods, wares or merchandise in or out of this State, or upon the life or lives of any person or persons residing within the same; and all contracts and policies entered into by any such person or persons, company, copartnership or body politic or corporate, as insurers, shall be null and void.

2. If any person or persons shall make or renew any contract or policy of insurance as assurers, on account or in behalf of, or as agent or agents for any body politic or corporate of any foreign State, kingdom or country, any company or copartnership of foreigners, or any person or persons who is or are not a citizen or citizens of the United States, within this State, every such person or persons so offending shall, on conviction in any court of competent jurisdiction, forfeit and pay the sum of five thousand dollars for every such offence, one-half to the use of the commonwealth, and the other to the use of the informer who shall sue for the same.

3. If any citizen or citizens of this commonwealth shall make or renew any contract or policy of insurance, as a party insured, with any foreign company or corporation, any agent or agents for any such company or corporation, or with any person or persons who is or are not citizens of the United States, every person so offending shall, on conviction in any court of competent jurisdiction, forfeit and pay the sum of five hundred dollars, to the uses aforesaid, and in all or either case or cases, the policy or policies shall be deemed and received as conclusive evidence of such contract of insurance: *Provided, nevertheless,* That the penalty herein mentioned shall not be construed to extend to any case of marine insurance made in any foreign country by any agent or agents for any American merchant or merchants, so as to secure the vessel or cargo belonging to any American merchant or merchants, nor to prevent any foreigner or foreigners from having his, her or their property insured within this State, excepting only an alien enemy.

So Pennsylvania hostile insurance legislation began. The opposition to the Phœnix was aided by the retaliatory feelings excited by the captures at sea, which averaged from the raising of the blockade in March, 1809, to the last of March, 1810, about 12 American vessels per month.

A trial in July at Nisi Prius, before Justice Yeates, was a case in which the agent had neglected to effect insurance on a brig as directed by a letter of instructions, in which the vessel was valued at \$4,000, three-fourths of which sum the owner wished to have insured. The defendants (*Miner vs. Tagert & Smith*) admitted their liability to answer in the same manner as insurers, and

put their defence upon two grounds: 1, unseaworthiness of the vessel; 2, value of the vessel much below the amount directed to be insured. On the voyage from Newburn to Cape Francois the brig was greatly damaged by bad weather, and forced to put into Port au Prince, where she was surveyed, condemned as being unworthy of repair, and sold for \$825. The jury found a verdict upon the footing of a valued policy for \$2,978.55, allowing thereby to the defendants, in addition to the deductions mentioned by the court, one-half of one per cent., as if they had made the insurance, and two per cent. for collecting and paying over the money. New trial refused. (2 Binney, 394.)

December 1 the presidents of the Insurance Company of North America, the Insurance Company of the State of Pennsylvania, and the Marine Insurance Company, called a meeting of the stockholders of the Bank of the United States, such companies being owners of more than 200 shares, to devise measures in case of the renewal or non-renewal of the charter of the bank, expiring March 4, 1811. The bill for the re-charter of the bank was defeated by the casting vote of Vice-President George Clinton—a loss to the prestige of the city as the financial centre of the country.

In 1810 the vessel tonnage of the port was 121,443, an increase of 17,780 over the tonnage of 1809. Exports of domestic and foreign produce had, however, declined to \$10,993,398, against \$17,523,866 in 1796. The embargo being raised, there were in 1810, 1,111 clearances—514 foreign and 684 coasters; with 1,198 arrivals—514 of these being foreign and 684 coastwise; a falling off from earlier years. Philadelphia offices, including the brokers' offices with diminishing personal underwriters, were yet writing a great part of the marine risks of the country, but the proportion was declining.

At the beginning of 1811 the non-importation law was suspended, but to go into effect again in case the British orders in council were not repealed at a certain date. The law took effect February 2.

In January the Supreme Court held that an abandonment after acquittal, and after order of restitution, but before actual restitution was made, too late—the court not being in favor of extending the right of abandonment farther than it had been carried. (3 Binney, 287.)

An owner of goods chargeable with general average was personally liable for the amount of his contribution, notwithstanding that he had abandoned to the underwriters. (*Id.* 295.)

Circuit Court held that with open policy on goods, invoice price was not the value for which insurer was liable. In case of a total loss, the insurer loses as much as the property insured was worth at the time and place of shipping it, the expenses of lading included; *i. e.*, what it would sell for shipped. The rule for fixing the value of a lost vessel in an open policy was to take the sum she was worth at the time of her departure, and certain expenses. (2 Washington, C. C. R., 469.)

With the failures following the curtailment of credit resulting from the discontinuance of the Bank of the United States, the underwriters were called upon to take new precautions with respect to the notes received for premiums.

At the suggestion of the United States Insurance Company, Horace Binney prepared the following policy clause:—

It is hereby agreed that unless a satisfactory endorsed note for the premium of this insurance be given to the Company within        days from the date of this order, the assured shall not claim the benefit of the policy in case of loss, but shall nevertheless remain liable to the Company for the premium.

Mr. Binney accompanied this with these remarks, with others, March 9, 1811:—

You are aware of the great caution required in the insertion of new clauses in policies or orders. The experience of your own business will enable you to ascertain whether there are not likely to occur some inconveniences from any clause on the subject. I think that as few would arise from that which I have penned as from any.

The question here was liability for premium with insurance discontinued, but the premium was due when the risk was entered upon.

There were eleven insurance corporations issuing policies in the city in 1811, exclusive of two ecclesiastical or denominational corporations of a bene-  
cial, not business, character, providing reversionary annuities. Of the eleven organizations, seven were marine,\* one marine-fire, three fire, and their direc-  
tories and locations were as follows:—

THE PHILADELPHIA CONTRIBUTIONSHIP, &C.

*Office—99 High.*

Treasurer: Caleb Carmalt.

John Morton,  
Jacob Downing,  
Zaccheus Collins,  
Isaac Pearson,

Pattison P. Hartshorn,  
Joseph P. Norris,  
Joseph S. Lewis,  
Joseph S. Morris,

John Perot,  
Joseph Crukshank,  
John C. Evans,  
Zachariah Poulson.

MUTUAL ASSURANCE COMPANY.

*Office—Pine Street Wharf.*

Treasurer: John B. Palmer.

James Reed,  
Dan'l Smith,  
Henry Hawkins,  
James C. Fisher,

Walter Kerr,  
John Morrell,  
Jonathan Smith,  
James Milnor,  
John C. Stocker,

Robt. Wharton,  
Wm. Poyntell,  
Robt. Smith,  
Sam'l F. Bradford.

INSURANCE COMPANY OF NORTH AMERICA.

*40 Walnut.*

President: John Inskeep.

Alexander Henry,  
J. Tagert,  
Jacob C. Wikoff,  
Sam'l W. Jones,  
John Stille,  
Edward Smith,  
Richard Leedom,  
John McKissick,

Sam'l Hodgdon,  
Andrew Pettitt,  
Robt. Harwood,  
James Read,  
Joseph Donath,  
Thomas Latimer,  
William Ramsey,  
Thomas Dunn,

John H. Brown,  
Jacob S. Waln,  
John Large,  
Godfrey Haga,  
Wm. Poyntell,  
Thomas Astley,  
John Leibert,  
John G. Carrow.

INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA.

*N. E. Corner Dock and Second.*

President: James S. Cox.

Henry Pratt,  
I. Hollingsworth, Jr  
Samuel Coates,  
George Fox,

John Clement Stocker,  
John G. Wachsmuth,  
Henry Nixon,  
Charles Wharton,

Joseph Sims,  
Daniel Smith,  
Paul Siemen,  
Reeve Lewis,

\* The marine insurance office was a general insurance company in some degree. Writing, in 1811, of Philadelphia insurance offices *not* classed as fire insurance offices, Dr. Mease said (113): "They make all kinds of marine insurances, insurance on the inland transportation of goods, against fire, and on lives, and lend money upon bottomry and respondentia."



## UNION INSURANCE COMPANY.

*45 Walnut.*

President: George Latimer.

Wm. Y. Smith,  
Joseph Sumerl,  
Lewis Clapier,  
Thomas Newbold,

James Vanuxem,  
Hugh Colhoun,  
Richard Dale,  
Matthew Lawler

Stephen Girard,  
John Bohlen,  
Edw'd Dunant,  
Joseph Ball.

## PHOENIX INSURANCE COMPANY.

*96 South Second.*

President: David Lewis.

Joseph Snowden,  
Paschal Hollingsworth,  
Joshua M. Wallace,

Joshua Gilpin,  
Paul Beck, Jr.,

Charles Biddle,  
Joseph Curwen,  
Chas. Macalaster.

## DELAWARE INSURANCE COMPANY.

*42 Walnut.*

President: Thomas Fitzsimons.

Sam'l Keith,  
Manuel Eyre,  
Benj. Jones,  
Rich'd Davis,  
John Vaughan,

Wm. Montgomery,  
Griffith Evans,  
Andrew Bayard,  
Wm. Philips,

Sam'l Yorke,  
Jos. D. Drinker,  
Wm. McFaden,  
Jonathan Leedom,  
Edw'd Shoemaker.

## PHILADELPHIA INSURANCE COMPANY.

*S. W. Corner Walnut and Second.*

President: Samuel W. Fisher.

Thomas M. Willing,  
John Ashley,  
Joseph S. Lewis,  
Ab'm Kintzing,

Robert Waln,  
John Savage,  
Lewis Waln,  
Wm. J. Miller,

James C. Fisher,  
James Smith,  
Henry Hawkins,  
Thos. W. Francis.

## MARINE INSURANCE COMPANY.

*47 Walnut.*

President: John Leamy.

David Walker,  
Condy Raguet,  
John Coulter,  
Israel Whelen,

Wm. Maris,  
Joseph Peace,  
John Strawbridge,  
Robert Murdoch,

Joseph Dugan,  
Thomas Ketland,  
James Hemphill,  
James Paul.

## UNITED STATES INSURANCE COMPANY.

*49 Walnut.*

President: Israel Pleasants.

William Davy,  
Thomas Callender,  
Edward Carrell,  
M. L. Bevan,

James Tatem,  
Chandler Price,  
Robert Oakley,  
James Latimer,

Robert Ritchie,  
William Newbold,  
Charles Pleasants,  
Hartman Kuhn.

## AMERICAN FIRE INSURANCE COMPANY.

*101 Chestnut.*

President: William Jones.

Guy Bryan,  
William Jones,  
Thomas McEuen,

Chandler Price,  
Joseph Reed,  
John Savage,

John Sergeant,  
James Vanuxem,  
Israel Whelen.

In adjusting a total loss as per abandonment, insured claimed freight under these circumstances: Ship on voyage from Philadelphia to Barbadoes was compelled by stress of weather to put into Antigua, where she was condemned

and sold, and the voyage broken up. Both ship and cargo belonged to the same owners, and both were assured, and suit being instituted, there was a verdict for total loss; but with claim for deduction out of the net proceeds of the sale, which were to be credited to the underwriters of a *pro rata* freight to Antigua, it was held that no such freight was due. There was a query as to whether, if a *pro rata* freight had been due, it would have belonged to the underwriter on ship by the abandonment, or to the owner of the ship, who had stood his own insurer as to freight. (3 Binney, 437.)

The master of the *Hamlet* had put into Falmouth; vessel was insured in the *Phoenix*, at and from Philadelphia to Amsterdam, with liberty, in case she was turned off from Amsterdam, to proceed to some neighboring port of discharge. She was boarded on the passage to Amsterdam by a British ship of war, and her papers endorsed with a direction not to proceed to any port at war with Great Britain, or which was shut against British ships, but to proceed to any port of Great Britain or Ireland for further directions. Then, putting into Falmouth, the *Hamlet*, in consequence of head winds, and with a view to obtain convoy (the captain having there heard of the Milan decree), remained nearly four months, and then sailed under convoy for the Downs, with intent from that place to proceed to London or Amsterdam, according to advice. While so sailing a gale came on which forced her into the Downs, where she stranded and sank, April 4, 1808. The *Hamlet* was warranted American, and coming to suit it was held not to be a breach of warranty of neutrality for the vessel to take convoy of a British ship of war, if, during the voyage insured she had become exposed to the operation of the French decrees, in consequence of having been visited at sea by a British cruiser, and the endorsement and warning justified going to Falmouth; and that the stay at Falmouth was justified by the circumstances stated, and even if the Downs were out of the course of a voyage to Amsterdam, yet the gale justified the captain's going in, and his design before he left Falmouth to put into the Downs for advice was but an intention to deviate, and not a deviation. (3 Binney, 457.)

As such convoy was not a breach of warranty of neutrality, neither was carrying of enemies' goods in a neutral bottom, provided there was no attempt on the part of the neutral to conceal the character of the ownership. (3 Washington, C. C. R., 117.) In the same case vessel warranted American was hypothecated to a Dutch merchant to obtain funds for necessary repairs, and, having been captured, it was held that the hypothecation falsified the warranty.

A new trial was refused by the Supreme Court, December term, 1811, in the case of *Jennings vs. The Insurance Company of the State of Pennsylvania*, involving the constitution or character of a bottomry. The trial took place at Nisi Prius, the previous April, when the jury found the following special verdict:—

The jury in the above case find for the plaintiff \$5,285.90, and six cents costs, provided the court are of opinion that the *document* from Scott and Scribner to Jennings is not a bottomry. Should the court however be of opinion that the said document is a bottomry, then the jury find for the plaintiff only \$1,510.02, and six cents costs. [The last sum covered the loss upon goods only.]

The document referred to consisted of three instruments upon the same sheet of paper.\* Two policies had been effected—one on ship, the other on cargo—in the name of Elliston and John Perot, correspondents of the plaintiff; and the action was marked upon the docket, in the first instance for the use of the plaintiff, then for the use of Thopilus Staines, and if there should be any residue, then for the use of Eliphalet Scribner. Both counts in the declaration contained an averment that at time of execution of policy and happening of loss, vessel and cargo were the property of Eliphalet Scribner, and that Jennings, his attorney in fact, procured the insurance to be effected by his order, for the benefit of the three persons above named. The loss alleged was by capture.

Tilghman, C. J.: In this case there were insurances on ship and goods. There is no dispute about the goods. . . . The question is, whether a good and valid bottomry interest was vested in Jennings. There are three writings to be considered. [An analysis of them followed.] . . . It is unnecessary to decide whether a bottomry may not be made to secure a sum of money lent with *legal* interest, payable *at all events*, and accompanied with *collateral personal* security. This is not a case of that kind. Here the agreement was that *more than legal interest* should be paid. A bottomry of that sort can not be supported, unless the money is put *at risk*; or, to speak the language of the books, to such a bottomry *a risk is essential*. Its being *called* a bottomry by the parties is of no consequence; their calling it so cannot alter the nature of the thing. If Scribner had filed a libel in the Court of Admiralty, praying for relief by sale of the vessel on this agreement, his suit would have been rejected, because it is the consideration of the risk alone which makes it lawful to take marine interest. The authorities on this point are positive. . . .

\* Viz.:—

1

St. Thomas. For and in consideration of \$2500, advanced in my necessity for the use and equipment of the schooner Amelia, now lying in this harbor of St. Thomas, and whereof I the underwritten William Scott of the town of Palmer in Massachusetts state am at present master, and *bonâ fide* owner, and which advance has enabled me to prepare for my voyage,—I the said master and owner do by these presents *bottomrie* the said schooner Amelia, together with her boat, tackle, apparel and appurtenances, to Richard Downing Jennings, of St. Thomas, his heirs and assigns, *to remain his property*, and to be *at his absolute disposal*, until the said sum of \$2500 shall have been fully and *bonâ fide* restored and paid to him, free of all expenses that might attend the recovery of the same. In witness Whereof I have subscribed these presents, this 5th day of March in the year of our Lord 1801.

[Seal] WILLIAM SCOTT.

In the presence of  
John C. Lindesay  
Engel V. B. Benners.

2

At the request of Captain William Scott, and for the more ample satisfaction of Richard D. Jennings esquire, for the advance made, as is more fully explained on the other side, I, the underwritten Eliphalet Scribner, formerly of the State of New York, merchant, but for the three years last past have been trading and voyaging among the islands, do hereby bind myself as a principal in the *bottomry* bond expressed on the other side, and for the payment of the sum therein mentioned do by these presents bind myself, my heirs and assigns, *here or elsewhere, till the said payment is fully and completely made*. St. Thomas, March the 5th, in the year of our Lord 1801.

[Seal] ELIPHALET SCRIBNER.

In the presence of  
John C. Lindesay  
Engel V. B. Benners.

3

Whereas Richard Downing Jennings esquire, at my earnest request and entreaty has consented to advance me \$2000 for my immediate relief in a pressing emergency, and whereas he has written to Philadelphia to have the sum of \$4000 insured upon the schooner Amelia and her load of salt from hence to Aux Cayes, and from thence to some one port in the United States,—I, the underwritten Eliphalet Scribner, do hereby bind myself, my heirs and assigns, for the sum of \$2000, to be well and truly paid to the said Richard Downing Jennings or his order, together with all the cost of premium and other *charges that accrue in making the said insurance*, together with five per cent. commission for ordering the same; and moreover to allow to the said Richard D. Jennings \$200 per month, *to be paid at the expiration of each month*, till the whole of the before described advance be fully satisfied and paid, and which being fully paid, renders the bottomry together with the bond on the preceding pages null and void.

St. Thomas March the 6th, 1801.

ELIPHALET SCRIBNER.

In the presence of  
John Darrell  
Engel V. B. Benners.



I am of opinion that the writings referred to by the jury did not constitute a bottomry.—Yeates, J., and Brackenridge, J., concurred. (4 Binney, 244.)

There was an action of covenant upon a policy for \$15,000 on the ship Benjamin Franklin, valued at that sum for three-fourths of the vessel, "at and from Philadelphia to Batavia, and at and from thence to Cowes and a market, &c., with liberty to touch and trade as usual." The ship arrived at her port of destination and delivered her cargo, but sustained injury upon the voyage by striking on a shoal. For want of the requisite docks the vessel was irreparable at the point reached, and to go elsewhere, unseaworthy. She was surveyed, an estimate of the requisite repairs made, then condemned and sold. The captain purchased her for less than one-sixth of her value in the policy, and for less than the estimate for repairs; and he then sailed in her, at great risk, to where he put her in a dry dock, and had her repaired at less than 50 per cent. of her value. After the repairs were made, but before the owner knew of them or of her arriving, he abandoned. It was held that the damage not amounting to 50 per cent. of value of vessel, the abandonment was not good; but as a partial loss the insurers were bound to pay not only the cost of repairs, but the expenses of taking her to be repaired. (4 Binney, 385.)

That the decrees of France and orders in council of Great Britain were violent invasions of the rights of neutrality, no arguments born of the terrific struggle of which they were part could refute. France preceded England in the repeal of such authorizations of aggression, but in April, 1812, reports were in the city of orders for the French cruisers to burn, sink and destroy American vessels, and 14 vessels had been captured by the French in the preceding six months. There was much agitation this month about an embargo for 90 days, and merchants and others who had property in England or her colonies met to protect their interests. On the subject of the non-intercourse act, the right of search as well as the orders in council, negotiations had been carried on with the English government for a long time; but that government as yet adhered to its obnoxious policy, and President Madison, June 18, 1812, signed an act declaring war against Great Britain, while that nation, relaxing in its aggressive purpose, repealed the orders in council five days later. When the news of the repeal of the orders in council arrived, renewal of negotiations was proposed, but the war was commenced in order not to give time for the British government to strengthen the Canadian fortifications. The United States was not prepared for a contest, but Great Britain, engaged in its tremendous struggle with Napoleon, gave little attention to American affairs. Privateers began to be fitted out in the city, and there was no immediate blockade of the coast. Marine offices were put upon a war footing, rates were advanced from a neutral to a belligerent standard. For homeward vessels a large proportion of policy sum was demanded as premium according to circumstances.

In the Supreme Court in July there were more causes growing out of the numerous captures. In *B. & J. Bohlen vs. The Delaware Insurance Company*, abandonment at any distance of time from condemnation was ground of recovery for total loss (4 Binney, 430), and so was dispossession before restora-

tion (*Brown vs. The Phoenix Insurance Company, etc.*); but abandonment after property was restored could not convert a partial into a total loss. (4 Binney, 445.)

In *Warder vs. Horton & Cummings*, error to the District Court of the city and county of Philadelphia, British interests falsified the warranty of American (neutral) property as insurance was effected, viz.: The American owners of a ship learning from the captain in England that he intended to bring home a cargo of salt, etc., for their account, effected insurance on goods, warranting them American property. Two British merchants and the consignees of the ship abroad, loaded her with salt, etc., which they paid for with their own funds, and took a bill of lading from the captain, making the same deliverable to their agent in the United States. They at the same time insured the cargo in their own names in England, and instructed their agent to deliver it to the vessel owners upon their paying him a sum exceeding the cost of the cargo; otherwise to dispose of it for account of the English parties. The ship foundered upon her voyage to America. It was held (reversal of judgment below) that Horton & Cummings had no interest that they could insure under the description of cargo, or goods; and *quære*, if they had any interest at all; and that this was not a case of double insurance, because the insurances were not on the same risk, *and* for the same person. (4 Binney, 529.)

By *Lapsley and Ikin vs. Pleasants*, president of the United States Insurance Company, part of the goods insured (abandonment), more than one-half had been jettisoned, the balance arriving in good condition at the port of destination, and on adjusting the general average the loss was 36½ per cent. It did not appear that the insured even applied to the persons bound to contribute. Held, that the owner of the jettisoned goods was not entitled to abandon and turn over to the underwriters the claim for contribution, but must in the first instance resort to the other proprietors. (4 Binney, 502.)

In the Circuit Court this year it was decided as to concealment (*Popleston vs. Kitchen*), that applicant is not bound to communicate age of vessel, nor where built, unless asked (3 Washington, C. C. R., 139); and as to misrepresentation, expression of opinion was not such. Insured in such case (*Clason vs. Smith*) had represented: "We have no doubt he could get the insurance effected in New York at that premium—15 per cent.," when, in fact, the risk had been refused by all the New York offices. Risk was accepted by the Philadelphia insurers upon their own judgment at 20 per cent. premium. Held, that the representation of such an opinion should not have influenced the acceptance of the risk nor the determination of the rate, and was not material. The payment of 20 per cent. premium in Philadelphia showed that the opinion as to 15 per cent. premium in New York was not candid. (3 Washington, C. C. R., 156.)

Blockade of Delaware and Chesapeake bays was proclaimed December 26, and the maritime and insurance question was the degree to which the port would be effectually closed, but the British naval forces did not appear with any formidable power till February, 1813. March 20, 1813, the whole coast



of the United States was declared to be in a state of blockade, excepting the coasts of the New England States, where the sentiment of opposition to the war as "a hateful alliance with France" was strongest. "Liberty to cruise" and "against all risks" now became of the exceptional subjects of underwriting. In April, 1813, the China packet *Montesquieu*, one of Stephen Girard's vessels, was captured by the British fleet at the capes of Delaware. The vessel was ransomed by Mr. Girard for \$180,000 specie. "The few vessels that remain to us," wrote a newspaper correspondent, in September, "are hauled up in the docks, a prey to the weather and worms, and the wretched portion that is permitted to enter and depart our harbors bears the colors of other nations." This extract was taken by Poulson's journal from the *Portland Gazette*:—

When the present war was declared, its advocates . . . . . declared that American privateers within one year would be so numerous and efficient as in a great measure to annihilate the British: "two for one" was the lowest calculation. . . . . The result is that the commerce of the United States has been swept from the ocean, except a little which has been permitted by special licence of the British, while the commerce of England has greatly increased. When insurance on British vessels can be made for 3 or 4 per cent., it could not be made on United States vessels short of 50 per cent. In consequence of this England enjoys the commerce of the world, with the exception of the little that is carried on by the Swedes, Portuguese and Spaniards who are at peace with her.

Meanwhile, with the belligerent risk to be treated by the offices, the courts were dealing with the perils of neutrality and trade prohibitions. There had been a policy executed September 4, 1807, on goods at and from Philadelphia to Antwerp, with an agreement not to abandon in case of capture or detention in less than sixty days after notice thereof, and with the usual clause against illicit or prohibited trade. The ship sailed September 13, was arrested by a British privateer October 16, and carried into Plymouth. (This was known to the insured December 1.) October 20, the ship's papers were returned, and she proceeded on her voyage. On the 27th she dropped anchor in Flushing roads, when, the captain having reported himself to have been in England, a guard was put on board, and remained until he was ordered to quit the roads; but permission was refused to proceed to Antwerp. He then sailed for Rotterdam, intending to discharge his cargo there, but was captured by a British vessel of war and carried into the Downs. (This was known to the insured in the beginning of February.) December 24, the ship's papers were returned, with permission to proceed to Rotterdam. But various accidents detained her until the captain, hearing of the Dutch decrees, determined to proceed to London and discharge his cargo, which he did at the end of February or beginning of March. May 20, 1808, the insured abandoned on the ground that the voyage was broken up and the cargo was discharged in England.

Held: 1. Arrest at Flushing and prohibition to trade at Antwerp being consequences of the first capture, they were not within the clause against prohibited trade, and gave the assured a right to abandon, if exercised in due time. 2. Dropping anchor in the roads of Flushing was not a deviation, that fortress commanding the Scheldt made it necessary to report there. 3. When stopped at Flushing, she ought to have proceeded to a near port in prosecution of the original voyage, but sailing to Rotterdam for the purpose of discharging was a new voyage, which the policy did not protect, and therefore the underwriters were not answerable for any subsequent disasters. 4. The arrest and detention at Flushing and turning away, being known to the assured in February, the abandonment in May was too late, and therefore the assured were entitled to recover only for the loss arising from the first capture and carrying into England. Judgment for a partial loss arising from the first capture and detention. (5 Binney, 403.)



That a warranty of vessel as American bottom did not mean that she was American built or registered, was the doctrine in *Griffith vs. The Insurance Company of North America*. Such warranty is true if she is American owned and sails under a sea letter merely. (*Id.* 464.)

When the master acted under fear of danger—case of construction of policy—the ship was twice captured, libelled and restored. Stipulated: “At and from New York to Amsterdam, with liberty in case of being turned off on account of blockade to proceed to a neighboring port.” Being at Yarmouth roads when restored the second time, and intelligence being received that the French and Dutch decrees (1808) were rigidly enforced on the continent, the captain proceeded to London, and there discharged his cargo. (*Ferguson et al. vs. Phoenix Insurance Company*). Held, that London was a neighboring port within the policy, and that the assured had no right to abandon. (*Id.* 544.)

In *Low et al. vs. Davy*, as president *pro tem.* of the United States Insurance Company, port of destination was blockaded, and the insured accepted his goods at an intermediate port, paying full freight. Cargo was transported thence to destined port by lighters. The underwriter was not liable for the expense of such transportation nor for the premium paid on the risk in the lighters. (*Id.* 595; 2 Sergeant & Rawle, 553.)

On a question of *pro rata* freight (*Callender et al. vs. The Insurance Company of North America*), ship, freight and cargo insured at and from Philadelphia to St. Bartholomew's, the ship put into Kingston, owing to having been much injured by storms, and, being surveyed, it was found that her repairs would cost more than the vessel would be worth when repaired. The master, who was consignee of the cargo, made inquiry for another vessel to carry it to St. Bartholomew's; but the only one that could be procured was not large enough to take more than half the cargo, and for this vessel an exorbitant freight was demanded. In consequence of this the damaged vessel was broken up and sold with her cargo. Upon receiving advice of these facts, the owners abandoned to the underwriters on ship and freight, and also to the underwriters on cargo. Held, that as the goods were not voluntarily accepted by the owners at the intermediate port, no freight *pro rata* was due, therefore, the insured were entitled to recover a total loss on both policies. (5 Binney, 525.)

An agent, procuring insurance on a vessel, gave his promissory notes for the premium (*Cranston et al. vs. The Philadelphia Insurance Company*). He delivered the policy to his principal, who assigned it to a *bonâ fide* purchaser, without notice. It was held that the agent had a lien upon the policy so long as he retained it, but his lien was gone when he delivered it up; and although the underwriters were entitled to deduct the premium, if unpaid, from the loss, yet if paid by the agent he had no equity to stand in their place, and to claim payment out of the sum due for the loss. (*Id.* 538.)

While the issue of policies was greatly reduced as the war continued, yet no office ceased to write, and at the beginning of 1814 the following advertisement appeared:—

## INSURANCE OFFICE.

The subscriber having commenced the business of a Marine Insurance Broker, at No. 43 Dock Street, solicits the patronage of the public in general, and that of his Friends in particular.

He hopes, by a strict attention to the interest of those who may employ him, and his long experience in Insurance Cases, to give satisfaction, and to merit a proportion of their favor.

JOHN DONNALDSON.

N. B.—The business of STOCK & EXCHANGE Broker, carried on, as usual—as also, the adjusting of Insurance Losses.

If a person who is under no obligation to execute an order of insurance nevertheless undertakes it, and executes it defectively, he is answerable for the loss (*French vs. Reed & Ford*), was a decision in the Supreme Court, April, 1814. (6 Binney, 307.)

In the United States Court (insurance on goods), deviation was excused (*Goyon vs. Pleasants*) when a vessel bound from Guadaloupe to a port in France, on the Atlantic, had stopped at Santos, with an honest intention to avoid British cruisers, remaining there no longer than was necessary. (3 Washington, C. C. R., 241.)

In *Wood vs. Pleasants*, where a vessel running short of water, put into Havana, it was held not to be a deviation if the want of water fairly existed, and a sufficient quantity for an ordinary voyage had been taken at the port of departure. (*Id.* 201.)

On certain articles insurer agreed to pay for total loss only. The vessel was wrecked just outside the port of destination, but a small part of the cargo was transported to the port and sold for barely enough to pay expenses. Held, that the insured could recover nothing. (*Id.* 256.)

It has been stated that at the beginning of 1811 the non-importation law was suspended, and at this time a personal writer made an insurance on a vessel outward and return from Philadelphia to Madras and Calcutta. Unless, however, the British orders in council were repealed at a certain date, the non-importation act was to go into full operation. With such contingency in view, insurance upon the voyage was effected whether the traffic should be prohibited or not. The vessel leaving Calcutta with a return cargo, the non-importation law was in force when she reached port. Vessel and cargo were seized by the government, but were subsequently released. Action was brought by the insurer to recover the unpaid premium, and the defence rested upon the illegality of the voyage as fully barring the claim. Justice Washington, in pronouncing the judgment of the court (*Gray vs. Sims*), held that a policy upon the ship, equally with that upon the cargo—the particular subject of interdiction—was void. The underwriter cannot protect a trade which is carried on in defiance of a law passed to interdict it. The jury was charged that the plaintiff was no more entitled to recover the premium than the defendant would have been to recover for a loss, should one have occurred. Whether the voyage would have been legal had the non-importation act been still in suspense at the arrival of the vessel, was not a subject for decision within the facts of the case. (3 Washington, C. C. R., 276.)

The charters of the two oldest marine insurance corporations, expiring in 1815, were renewed—that of the Insurance Company of North America by a supplementary act of January 28, 1813, was to continue to January 1, 1835. This supplement contained some new investment privileges which permitted the purchase of the company's own stock and bills of exchange, and allowed loans on the security of real estate within the State of Pennsylvania.

News came early in February of the signing of the treaty of peace at Ghent, December 24, 1814, and American ships and cargoes were again in the position of neutral as to the contending European powers as before the war between the United States and Great Britain.

The marine offices struggled for the renewal of a business now of small proportions. There was a commerce to be resuscitated, but the future was not promising. In the price lists the stock of all the marine companies was marked "uncertain."

Premiums in the city were as follows, March 31, 1815, according to Grotjan's Public Sale Report and General Price Current:—

## PREMIUMS OF INSURANCE IN PHILADELPHIA.

ON VESSELS BOUND TO	Out & home.		Single risks.	
	Pr. ct. From	Pr. ct. To	Pr. ct. From	Pr. ct. To
India, . . . . .	8	10	. . .	. . .
South America, . . . . .	8	10	4	6
The Coast of Africa, . . . . .	10	11	6	. . .
The Mediterranean, . . . . .	6	8	3	4
Great Britain & Ireland, . . . . .	5	6	2½	3½
France, Spain & Portugal, . . . . .	5	6	2½	3½
Russia, viz.:				
Places on the Baltic, . . . . .	10	11	4	5
Petersburgh, . . . . .	10	11	5	6
Archangel, . . . . .	10	11	5	6
Hamburg & Bremen, . . . . .	8	10	4	6
Holland, . . . . .	8	10	4	6
Denmark & Norway, . . . . .	8	10	4	6
The West India Islands, . . . . .	6	7	2½	4
New Orleans, . . . . .	6	7	3	4
Other places in the United States, . . . . .	3	4	1½	2½
" " " " " " per 6 mos., . . .	6	7½	. . .	. . .
" " " " " " per year, . . .	12	. . .	. . .	. . .

At the January term of the Supreme Court (*Krumbhaar vs. Marine Insurance Company*) the case was that of an insured who had abandoned on vessel returning to Philadelphia, May 18, 1811. The insurance was upon cargo "at and from Philadelphia to Gottenburg and another port," with warranty against illicit trade and seizure in port. By the instructions the master was to touch at Gottenburg for information, and then proceed to Eckenforde, where the cargo was to be delivered. On arriving at the quarantine ground at Gottenburg, information was received of the Danish decree against the importation of colonial produce in neutral vessels; permission was then asked to land the



cargo at Gottenburg, which was refused on account of a similar decree of Sweden; the vessel then went to Leith for repairs, being leaky; here a quantity of cotton amounting to one-third of the whole cargo was sold. The rest of the cargo not being permitted to remain at Leith, returned to Philadelphia in the vessel. Held, as abandonment should be made as soon as the voyage was broken up, that the plaintiff could not recover for a total loss. (1 Sergeant & Rawle, 281.)

June 18, 1815, the allies gained their decisive victory over Napoleon at Waterloo, and the widespread war of twenty-three years ended. Waterloo gave peace to the nations and to the sea, and the semi-war risk of the American vessel and cargo ended, to appear but as reminiscences in the seizures and actual and alleged breaches of neutrality remaining as causes of litigation.

The Supreme Court had decided when a ship had been warranted American, but the order for insurance stated that the cargo was wholly or partly contraband of war, that the policy on the ship was violated (*Schwartz et al. vs. the Insurance Company of North America*); but in December term, 1815 (*Ludlow vs. Union Insurance Company*), it was held to be sufficient for the plaintiff to give in the first instance general evidence of neutrality, leaving it upon the defendant insurer to show probable breach of warranty, when the burden of proof would be thrown upon the plaintiff. (6 Binney, 378; 2 Sergeant & Rawle, 119.)

Gradually the corporate underwriters had displaced the personal ones, and with the former now executing each an average of but few policies per day, the personal underwriter was disappearing. One of the latest Philadelphia policies subscribed by personal underwriters was the following:—

WHEREAS *Matthew Matthews* as well in his own Name, as for and in the Name and Names of all and every other Person or Persons, to whom the same doth, may or shall appertain, in Part or in All, doth make Assurance, and causeth himself and them to be insured, lost or not lost, *at and from Philadelphia to Baltimore*, upon all kinds of lawful Goods and Merchandises, loaden or to be loaden aboard the good Schooner called the *Valorius* whereof is Master for this present Voyage *Travis* or whosoever shall go for Master in the said Ship, or by whatsoever Name or Names the said Ship, or the Master thereof, is or shall be named or called, beginning the Adventure upon the said lawful Goods and Merchandises from and immediately following the loading thereof on board the said *Schooner at Philadelphia* aforesaid and so shall continue and endure until the said Goods and Merchandises shall be safely landed at *Baltimore* aforesaid. And it shall and may be lawful for the said Ship in her Voyage to proceed and sail to, touch and stay at any Ports or Places, if thereunto obliged by Stress of Weather, or other unavoidable Accidents, without Prejudice to this Insurance. Touching the Adventures and Perils, which we the Assurers are contented to bear, and to take upon us in this Voyage, they are, of the Seas, Men of War, Fires, Enemies, Pirates, Rovers, Thieves, Jettisons, Letters of Mart, and Counter Mart, Surprisals, Taking at Sea, Arrests, Restraints and Detainments of all Kings, Princes or People, of what Nation, Condition or Quality soever, Barratry of the Master and Mariners, and all other Perils, Losses, and Misfortunes, that have or shall come to the Hurt, Detriment or Damage of the said Goods or Merchandises, or any Part thereof. And in case of any Loss or Misfortunes, it shall be lawful to and for the Assured, his Factors, Servants and Assigns, to sue, labour and travel for, in and about the Defence, Safeguard and Recovery of the said Goods and Merchandises, or any Part thereof, without Prejudice to this Insurance, to the Charges whereof we the Assurers will contribute, each one according to the Rate and Quantity of his sum herein insured. And it is agreed by us the Assurers, that this Writing or Policy of Insurance shall be of as much Force and Effect as the surest Writing or Policy of Assurance heretofore made in any of the UNITED STATES, or Elsewhere. And so we the Assurers are contented, and do promise and bind ourselves, each one for his own Part, our Heirs, Executors and Goods, to the Assured, his

Executors, Administrators and Assigns, for the true Performance of the Premises, confessing ourselves paid the Consideration due unto us for the Assurance, by the said Assured, or his Assigns, at and after the Rate of *One and a half p cent.* And in case of Loss, the Assured is to abate Two per cent., and such loss to be paid in One month after Proof thereof: Provided always, and it is hereby further agreed, That if the said Assured shall have made any other Assurance upon the Premises aforesaid, prior in Date to this Policy, then the Assurers shall be answerable in Proportion to the Sums by them respectively subscribed, and not one for the other, only for so much as the Amount of such prior Assurance may be deficient, towards fully covering the Premises hereby Assured, such Amount being understood to be the whole Sum underwritten, without any Deduction for the Insolvency of all or any of the Underwriters, and that this Policy, so far as the Property has been previously insured, shall be considered as null and void to all Intents and Purposes: And the said Assurers shall return the Premium upon so much of the Sum by them individually Assured, as they shall be by such prior Assurance exonerated from. And that in Case of any Insurance upon the said Premises, subsequent in Date to this Policy, the said Assurers shall nevertheless be answerable for the full Extent of the Sum by them individually subscribed hereto, and not one for the other, without Right to claim Contribution from such subsequent Assurers, and shall accordingly be entitled to retain the Premium by them received, in the same Manner as if no such subsequent Assurance had been made. And it is agreed, that if any Dispute should arise relating to the Loss on this Policy, it shall be referred to two indifferent Persons, one to be chosen by the Assured, the other by the Assurer or Assurers, who shall have full power to adjust the same; but in Case they cannot agree, then such two Persons shall chuse a Third; and any two of them agreeing, shall be obligatory to both Parties. IN WITNESS WHEREOF, We the Assurers have subscribed our Names and Sum assured, in Philadelphia, the *twentieth day of December, One Thousand Eight Hundred and fifteen.*

MEMORANDUM. It is agreed, that Salt, Wheat, Indian Corn, Pease, or any other kind of Grain; Malt, Bread, and dried Fish, stowed in Bulk; Tobacco in Casks, Fruit, Apples, or any other Articles that are perishable in their own Nature, are warranted free from Average, unless general. All other Goods free from Average under Five per cent., unless general. The Assured shall allow the Office-keeper or Broker Half per cent. for his Trouble in collecting any Loss that may happen on this Policy, paying the same in due Time, and registering it in the Office Books. And in all cases of Return Premium, Five per cent. on said Premium to be retained, provided that in no Case it be under an Half per cent. on the Sum subscribed. It is mutually agreed by the Parties to this Policy that no Part of the Premium shall be returned or abated on Account of any Deviation which shall be made by the Owners or their Factors, from the present Voyage.

Warranted free from any Charge, Damage or Loss, which may arise in Consequence of a Seizure or Detention of the Property for or on Account of illicit or prohibited Trade.

\$500.	Five hundred dollars,	Wm. McFaden.
\$500.	" " "	John Myers.
\$500.	" " "	William Leedom.
\$500.	" " "	Peter Hahn.

CHAPTER VIII.

*Decay and Condemnation of Vessel—Deviation—Loss of the Maritime Supremacy of Philadelphia—Lake and River Transportation and Steam Propulsion—Adjustments of Particular Average—Implied Seaworthiness—Evidence as to Prohibited Trade—Shipment before Notice of Blockade—A Specially Forbidden Trade and the General Warranty against Illicit or Prohibited Trade—Upon Abandonment Insured agent of the Insurer—To repair is to indemnify—The Breadth of the Marine Hazard—Notes of Policy Issues—Foul Play—Locality as designated—The Philadelphia Respondentia Bond—Insurance of Creditor upon Debtor's Assigned Commissions and Proceeds of Such Commissions—"Free from Average" in Policy upon Profits—Commissions for effecting Insurance, Marine and Fire—Two Decades of Marine Insurance Business—Perils of "Rivers"—Steam Explosion—Commission Merchants as Insurance Brokers and Agents; Ralston & Lyman—Haven & Smith's Agency of the Mercantile Marine, of Boston—Charges in General Average with Total Loss—C. F. Sibbald's Agency—Impaired Capital of the United States Insurance Company, Opinion of Horace Binney—Incorporation and Organization of the Atlantic Insurance Company—The Marine Insurance Situation in 1825—Position of New York and Boston Companies, Marine and Fire—William Craig's Agency—French Maritime Spoiliations after 1800, Meeting in Relation thereto—Application of the Writ of Foreign Attachment to Non-State Corporations—Beginning of Pennsylvania Legislation as to Other-State Insurance Corporations—The First Public Statement in Philadelphia of Insurance Assets—A Form of Respondentia Bond—Money on Board to purchase Cargo, not Cargo, Insurance-wise—Prohibition by Taxation of Other-State Insurance Companies. (1816-1829.)*

THE stipulation in the policy declaring exemption of the underwriter in case of condemnation of vessel, after survey, for being "unsound or rotten," was enforced in 1816 in the case of *Steinmetz vs. United States Insurance Company*, "most part of the timbers decayed." (2 Sergeant & Rawle, 293.) The United States had also insured a cargo from New York to Bremen, "with liberty to enter a Dutch port, when informed on arriving on that coast that it can be done with safety." Off the coast of Holland the master was informed that Amsterdam was not blockaded, and that he might proceed there free from the molestation of British cruisers. He then made for the Texal, was captured by a French privateer, and the cargo was subsequently condemned. Held, that the departure from the voyage to Bremen was a deviation which discharged the insurers, the information given relating only to safety from British cruisers. (2 Sergeant & Rawle, 309.)

In 1816 the arrivals at the ports of Philadelphia and New York numbered respectively as follows:—

	Foreign.	Coastwise.
Philadelphia, . . . . .	599	1,218
New York, . . . . .	1,172	1,832



Philadelphia had lost its supremacy among the maritime cities of America, and the comparative after-progress of the two cities was indicated by the figures here cited. The marine offices of Philadelphia were normally declining from their ascendancy in the commerce of the country, and though the reaction from the rates made by the international troubles was slow, the reduced premiums were inadequate to the hazards involved.

Inland transportation, river and lake, had so far received but incidental attention from the Philadelphia offices. Its character had been varied by the introduction of steam propulsion. John Fitch first experimented on the Delaware, July, 1786, with a skiff of three-inch steam cylinder, and side-paddles dipping horizontally into the water. A steamboat carrying passengers and goods was running on the Delaware in 1790. A stern-wheel boat made a successful trip from Pittsburgh to New Orleans in the winter of 1812, and steamers were running regularly some time afterwards on the routes from Philadelphia to Baltimore and New York. Frequency of explosions of boilers on steamboats was having public attention in 1817. There was a movement to secure a law for inspection and regulation, and a committee, consisting of Roberts Vaux, George Vaux, Horace Binney, William Smith and William Lehman, made a communication to the authorities on the subject.

A second edition of *An Essay on Average*, by Robert Stevens, of Lloyd's, had appeared in London in 1816, and an American reprint of the same was published in Philadelphia in 1817. We cite from Section III of the work the following examples from Four Modes of Adjustment of Particular Average or Partial Loss, such four modes being:—

1. AS A SALVAGE LOSS.
2. On the DIFFERENCE between the sound and damaged sales, without a reference to the cost.
3. On a comparison between the NEAT PROCEEDS of sale of the sound and damaged goods.
4. On a comparison between the GROSS PRODUCE of the same.

Article 1. On the Adjustment of a Partial Loss by Deterioration on the Principle of a *Salvage Loss*.

#### SECOND EXAMPLE.

*On a losing Market.*

Amount of interest, . . . . .	£500
Deduct gross produce of the damaged sales, . . . . .	175
Less charges, . . . . .	100
	<u>75</u>
Loss,	<u>£425</u>

Here the insurer makes good to the assured the whole of his loss;—for the underwriter pays the balance of the account: *ex. gr.*

To amount of invoice, premium, freight duties, &c., ut supra, . . . . .	£600
By amount of damaged sales, . . . . .	175
By claim on the underwriters, . . . . .	£425
viz:—For deterioration, . . . . .	250
Half the freight and duties, . . . . .	50
Half the loss of markets, . . . . .	125
	<u>425</u>
	<u>£600</u>

This example serves as one reason why a preference is given in foreign countries to this mode of adjustment. It is particularly prevalent in the United States, and if we had not good reason to know that few even of the best informed merchants there are unacquainted with any other mode, we might be uncharitable enough to imagine this a sufficient reason for the numerous claims made of late years from those countries, when the markets have been overstocked with British manufactures;—for it has been seen that on a *saving market* the merchant is fully indemnified,—*i. e.* he is put “in the same condition which he would have been in if the goods had arrived free from damage;”—and on a *losing market* he is not only indemnified against the depreciation in value, and the loss of the freight and duties,—but he is put in the same condition as if his goods had arrived at a saving market.

Article 4. On the Adjustment of a Particular Average by a Comparison between the *Gross Produce* of the Sound and Damaged Goods.

It will appear evident, that the three former modes will not admit of general adoption.

It has been seen that the *first* mode is objectionable,—because, by not having a reference to the *markets*, there are no means of ascertaining the extent of the deterioration, nor of indemnifying the assured. On the *second* mode, by having no reference to the *prime-cost*, the demand on the underwriter (for no *quantum* of damage can be made out, because no relative depreciation is established,) must entirely depend on the state of the markets, and, in consequence, on the speculations of the merchant. To the *third* mode, though it has indeed a reference to both the *markets* and the *prime-cost* the objections have just been detailed.

The *desideratum* is,—to obtain an uniform measure, or standard of adjustment, which can be made generally useful; and the result of which will be the same, whether the markets rise or fall, or whether the charges are increased or diminished;—and which, while it affords that indemnity to the assured to which he is fully entitled, does not subject the insurer to those claims with which, agreeably to his contract, he has no concern.

The following examples will show that this end may be obtained by an adjustment on the *Gross Proceeds* of sale. But first let it be admitted,—as it is imagined it must be by every intelligent man conversant with the true principles of insurance,—that the underwriter only insures the physical safety of the commodity, and of course agrees to pay only the amount of the physical damage it actually sustains.

#### FIRST EXAMPLE.

	<i>Market.</i>		
	Saving.	Losing.	Gaining.
<i>Pro-formâ</i> gross produce of <i>sound</i> sales, . . . . .	£600	350	850
Gross produce being damaged, . . . . .	300	175	425
Depreciation 50 per cent., . . . . .	£300	175	425

#### SECOND EXAMPLE.

Let all the *data* be altered;  
*ex. gr.*—increased.

Interest, . . . . .	£750
Deterioration, . . . . .	three-fourths
Charges, . . . . .	£200
Loss, on a losing market, } . . . . .	£75 per cent. on the interest.
Profit on a gaining market, }	

Then the adjustment will be as follows:—

	<i>Market.</i>		
	Saving.	Losing.	Gaining.
<i>Pro-formâ</i> gross produce of sound sales, . . . . .	£950 : 0 : 0	£387 : 10 : 0	£1512 : 10 : 0
Gross produce being damaged, . . . . .	237 : 10 : 0	96 : 17 : 6	378 : 2 : 6
Depreciation 75 per cent., . . . . .	£712 : 10 : 0	£290 : 12 : 6	£1134 : 7 : 6

The law implies warranty of seaworthiness only at the commencement of voyage, and if in the course of voyage vessel is damaged to one-half her value, the insured is entitled to recover for total loss, though the voyage has been performed and the vessel moored twenty-four hours in port of destination. This was enunciated this year in *Peters vs. Phoenix Insurance Company*. (3 Sergeant & Rawle, 25.) The sway of the Emperor Napoleon had ended,

but the account he made between American insurers and insured was not yet fully settled. A policy had been issued by the Delaware Insurance Company, with the usual exception from loss in consequence of seizure or detention for or on account of any illicit or prohibited trade. Vessel was seized off Cuxhaven (when Hamburg was under control of the French arms) for violating a decree of Napoleon not known to the insured, prohibiting admission of colonial goods unless accompanied with certificate of origin. The property was confiscated by order of the Emperor. Held, that there must be a legal prohibition, such as the prohibiting power had a right to make, that the insured should prove that Hamburg, at the time of the decree, was within the territory of the Emperor Napoleon, of which there was not the necessary proof.\*

An order for insurance during the recent war with Great Britain stated that the vessel bound for St. Bartholomew from New Haven "will sail under Spanish colors, being provided with them as well as with Spanish papers, to deceive the British cruisers." Reaching blockade ground, and being examined by the commanding officer of the blockading force, the master denied hearing of the blockade until he had taken in his whole cargo, and, proceeding (on permission to sail), was captured by a British privateer and condemned for breach of blockade. The Supreme Court of Pennsylvania, in 1819, held (*Olden vs. McChesney*) that if under the policy the goods were purchased and deposited in warehouse before notice of blockade, that conferred no right to ship them. Only that cargo may be exported under such a circumstance which is on board the ship or in conveyance to the vessel by lighters. (5 Sergeant & Rawle, 71.)

A vessel was insured from Philadelphia to Kingston, Jamaica, and a port in the island of Cuba, and being seized at Jamaica, an abandonment was made, which the insurers refused to accept, but agreed that the voyage home should be insured. The vessel afterwards being released on security given by the plaintiff's agents at Jamaica, they, without notice to the insurers, purchased a cargo and freighted the ship to St. Jago de Cuba, thence to Trinidad in Cuba, whence she returned to Philadelphia and was sold at auction (for the benefit of the underwriters, upon notice to them); and there was no evidence in the case (*Curcier vs. Philadelphia Insurance Company*) of any intention to waive the abandonment by the plaintiffs, or suspicion of unfairness. Held, that the jury were right in finding for the plaintiffs, on the ground that there was no waiver of the abandonment. After abandonment, if it be legal, the insured is agent for the insurer, and he may employ the ship to the best advantage. (5 Sergeant & Rawle, 113.)

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\* On cargo from Baltimore to Hamburg, seized at Cuxhaven, cargo landed at Hamburg, part sent to France and the remainder sold at Hamburg: Held, that if vessel were not destined for Hamburg, there was no inception of the voyage insured (the vessel had reached Heligoland, and was cautioned not to proceed to Toenningen, as the Eyder was blockaded); and that to establish illicit trading, breaking bulk was not necessary, for sailing without the certificate of origin rendered the trade illicit or prohibited. (*Smith vs. Delaware Insurance Company*; 3 Washington, C. C. R., 127.)

On goods at and from St. Thomas to Laguira and back: The vessel was captured by a Spanish privateer rather more than a league from Laguira and carried into Port Cabello where the goods were condemned, under decree of Aranjuez, of February 19, 1809, which adopted the Berlin decree of November 21, 1806, forbidding trade in British merchandise and manufactures. But the cause assigned for condemnation did not negative the policy warranty; therefore, held, that this was not a loss by seizure for illicit or prohibited trade within the meaning of the warranty, *i. e.*, not clearly expressed. (*Faudel et. al. vs. Phoenix Insurance Company*; 4 Sergeant & Rawle, 29.)



As an exception to the rule giving the right to abandon in event of damage deteriorating value of vessel more than one-half, it was held in *Ritchie vs. United States Insurance Company*, that if in such case the insurer undertakes to repair the damage, he can do it, and thereby the loss is made good. (5 Sergeant & Rawle, 501.)

A vessel had been captured and condemned, and cargo sold by order of Court of Admiralty, at Bermuda, but on appeal, restitution of vessel was obtained; and, through compromise with the captors, the insured obtained three-fourths of the proceeds of his goods. Ship-owner was also owner of two-thirds of the cargo, and had insured freight at the value of \$7,500. The insured abandoned on receiving intelligence of capture, and abandonment was accepted; but in adjusting the freight the insurer claimed credit for freight upon the portion of cargo not owned by insured. It was held (*Dumas vs. the United States Insurance Company*) that the valuation in the policy was conclusive. (12 Sergeant & Rawle, 437.)

The word "unlawful" had been inserted in a policy, viz., "all *unlawful* arrests, restraints," etc. Ship approaching port of destination, then blockaded, was taken, and dismissed with a warning after a second attempt to proceed. The blockade being lawful (*Thompson vs. Read*), insured could not recover for loss by the restraint. (*Id.* 440.)

Insurance premiums are, practically, in their main constituent, a grading of contingency from the intuitive appreciation of the least possible liability to a given casualty up to the alarm caused by near danger directly and immediately threatening. Life insurance rests on casualty and certainty. Death at age 30, for example, is but an incidental occurrence; death within eighty years afterwards is an inevitability; and in the latter case the life policy is but a provision for an endowment. Greatest breadth as to the casual, with respect to seaworthy vessels, had been assumed by the marine writers, including convulsive forces of nature, personal dishonesty and violence of man, and acts of nations in defiance of international comity, and their rates had been almost every percentage of the amount insured. Peace risks, or risks measured only by the usual defined perils of the sea, physical and personal, with, conditionally, governmental "restraints" and "detainments" of a commercial or non-militant character, were now the main subjects of Philadelphia marine writing, and the chief disturbance was the competition with New York, Boston and Baltimore writers. We name some examples of rates now current:—

The Union: Policy 6,792, December 16, 1820, brig *Caledonia*, Philadelphia to Havana, \$10,500, goods,  $1\frac{1}{2}$  per cent.; same vessel and company, policy 7,258, December 22, 1821, Philadelphia to Cape Haytien, \$12,000, goods,  $1\frac{1}{4}$  per cent.; policy 7,213, December 1, 1821, brig *Hal*, Philadelphia to Curacoa, \$4,000, goods,  $1\frac{3}{4}$  per cent. (Policy 17,477, in Insurance Company of State of Pennsylvania, \$10,000, same risk and rate.) Policy 7,254, December 21, 1821, brig *Mary Ann*, Philadelphia to Santiago de Cuba, \$8,500, goods,  $1\frac{1}{2}$  per cent.

Insurance Company of North America: Policy, June 15, 1821, brig *Caroline*, Philadelphia to Havana, \$2,500, goods,  $1\frac{1}{2}$  per cent.

Insurance Company of the State of Pennsylvania: Policy 17,284, October 17, 1821, brig *Caledonia*, Philadelphia to Aux Cayes, with liberty to touch and trade at Jacmel, and back to Philadelphia, \$9,000, goods,  $3\frac{1}{2}$  per cent.; to return, 1 per cent. for short property from Aux Cayes, and  $\frac{1}{2}$  per cent. returned if she does not attempt to touch or trade at Jacmel, and no loss happens.

In June, 1821, when incendiarism had been rife in the city, a sloop was loaded at Kensington, for New Orleans, mainly with 60 packages, ostensibly dry goods, and 4 kegs said to contain \$20,000 in specie; and \$55,000 were insured thereupon—\$30,000 in Philadelphia companies. One package was marked "glass, with care," and was put on top of some of the others. Near the Delaware capes this package took fire, which was quickly discovered and extinguished, and a jar of vitriol was found in the package. The captain went to Norfolk, and as suspicion was excited, an agent of the underwriters arrived, and the kegs of silver were found full of rusty iron, and the boxes of dry goods had each a pig of iron covered with hay and straw. One large package on deck was marked as a \$900 carriage, but it was filled with combustible rubbish.

As an instance of construction of particular language of policy, *Bell et al. vs. the Marine Insurance Company* may be cited—cause tried at Nisi Prius. Insurance at and from Philadelphia to Cork, and back to Philadelphia. The vessel arrived at the cove of Cork. Having suffered some damage in getting up to the cove, the consignees sold the cargo, deliverable at Limerick, and the vessel proceeded thither. The Marine Insurance Company, upon exhibition of a letter from the master stating that the ship, the *Amiable*, was at Grass Island, insured the ship as follows: "It being represented by the assured that the *Amiable* was ordered from Cork to Limerick, and had arrived there, it is hereby agreed that for a further consideration of one per cent. to us paid, we engage to see the said ship from thence, instead of Cork, back to Philadelphia." A loss having happened while the vessel was in the port of Limerick, Grass Island was designated as being within the *port* of Limerick, though about nine miles from the *town*. The jury decided that the ship was *at* Limerick, according to the representations of the insured, and gave a verdict for the plaintiffs, which the court refused to set aside. (8 Sergeant & Rawle, 98.)

As has been indicated, the Philadelphia respondentia loan was a contract of insurance upon the goods as well as a loan upon the same. The following respondentia had been executed December 11, 1818:—

Whereas the Insurance Company of the State of Pennsylvania have this day lent unto and advanced the said *Andrew Curcier* and *James S. Duval* the sum of *Twelve Thousand Dollars* upon the specie, goods, wares and merchandizes laden or to be laden on board the ship *Atlas*, whereof *James Girdon* is master, bound on a voyage from *Philadelphia* to *Bombay*, with liberty to touch and trade at *Pulo Penang* and *Calcutta* or *Malacca*, and at and from either, back to *Philadelphia*, with the usual liberties on such voyages: Now the condition of this obligation is such, that if the said ship do and shall, with all convenient speed, proceed and sail on the said voyage from *Philadelphia* to *Bombay*, with liberty to touch and trade at *Pulo Penang* and *Calcutta* or *Malacca*, and without any unnecessary delay shall return to this port of *Philadelphia*, with the usual liberties on such voyages, and here end her voyage, and that without any deviation, (the casualties of the seas excepted:) And if the said *Andrew Curcier* and *James S. Duval*, their heirs, executors or administrators do and shall within sixty days next after the said ship shall have returned to the said port of *Philadelphia*, from her said intended voyage, well and truly pay or cause to be paid to the said *The Insurance Company of Pennsylvania*, their successors or assigns, the sum of *twelve thousand dollars*, money of the *United States*, together with the sum of *two thousand four hundred dollars* of the like money, and also with interest for the said sixty days after the said ship shall have returned to this port of *Philadelphia*, or if during the voyage, and before the return of the said property to *Philadelphia*, an utter loss of the said ship or vessel, by fire, enemies, men of war or any other casualties, shall unavoidably happen, and the said *Andrew Curcier* and *James S. Duval*, shall and do within three calendar months after such utter loss, well and truly account for upon oath



or affirmation, and pay unto *The Insurance Company of the State of Pennsylvania*, their successors or assigns, a just and proportional average on all the said specie, goods, wares and merchandises of the said *Andrew Curcier* and *James S. Duval*, so carried from *Philadelphia* on board the said ship, and the neat proceeds thereof, and on all other goods, specie, wares and merchandises which the said parties shall therefrom acquire during the said voyage, and shall ship on board the said vessel, and which shall not be unavoidably lost as aforesaid; then this obligation to be void, otherwise to be and remain in full force and virtue. It being first declared to be the mutual understanding and agreement of the parties to this contract, that the lenders shall not be liable for any charge, damage or loss that may arise from seizure or detention of the within mentioned property, in consequence of illicit or prohibited trade. But the said lenders shall be liable to average, and entitled to all the benefits of salvage, in the same manner, to all intents and purposes as underwriters, as though this instrument was a policy of insurance, executed by the said *The Insurance Company of the State of Pennsylvania*.

**The annexed agreement accompanied this bond:—**

Whereas it hath been agreed, that the bills of lading for the specie, goods, wares and merchandises mentioned in the within obligation, shall be endorsed to *The Insurance Company of the State of Pennsylvania*, as a collateral security for loan within mentioned: Now it is hereby expressly declared and agreed, that such endorsement shall not be held to exonerate the persons of the borrowers nor to compel *The Insurance Company of the State of Pennsylvania* to accept the goods, specie, wares and merchandise which may arrive under such bills of lading, in discharge of such debt. But it shall be lawful for the said *The Insurance Company of the State of Pennsylvania*, their successors or assigns, to receive and hold the said goods, specie, wares and merchandise for the space of sixty days after their arrival at this port of *Philadelphia*, and in case the principal and interest on the within obligation mentioned, shall not be paid or satisfied within the said time, to dispose of the same at public auction, and to charge the borrowers with the balance that may remain due after deducting from the amount of said sales, the freight, duties, commissions, and other just and proper charges.

The ship went to Calcutta, where she took in a cargo and sailed for Philadelphia; but grounding in going down the river from Calcutta, she sprang a leak after she got to sea, put in at the Isle of France to stop the leak, and, sailing from the Isle of France, the ship was found to be in too bad a condition to make Philadelphia, and therefore went to Port Royal, in the island of Martinique, for repairs. There it was found that the repairs would cost more than the vessel was worth, and she was condemned. The goods were unladen and sent to Philadelphia in other vessels. At Philadelphia the goods, which had suffered no damage, were delivered to the company according to the agreement annexed to the respondentia bond, and at the expiration of sixty days were sold by virtue of the power vested in the company by the same agreement. On receiving intelligence of this disaster, Curcier and Duval offered to abandon the goods, but the company refused to accept the abandonment, and brought an action to recover the balance due upon the bond, after deducting the proceeds of the sale.

The defendants contended they were not personally responsible to the plaintiff; and at the trial at Nisi Prius, before the chief justice, February 12, 1822, a verdict was found for the plaintiff for \$4,765.52, subject to the opinion of the court upon the evidence; conformably to which, it was agreed, judgment should be entered for the plaintiff or the defendants.

Tilghman, C. J.: By the condition of the bond, the defendants were to be discharged from their obligation, "if, during the voyage, and before the return of the said property to Philadelphia, an utter loss of the said ship by fire, enemies, men of war, or any other casualty, unavoidably shall happen."

The loan was made upon the goods, and that the goods are the source from which the defendants were to derive the means of payment; and when we add to this, that by the



express understanding of the parties, the plaintiffs are liable to average, and have the benefit of salvage, in the same manner, to all intents and purposes as underwriters, as if this instrument was a policy of insurance, it will plainly appear that the defendants' construction is so contrary to the main intent of the agreement, as not to be maintainable. The defendants say, indeed, that the average to which the plaintiffs are liable, is only general average, but I see no reason for taking it in that restricted sense. Average, both general and particular, must have been intended; for how can the instrument be considered to all intents and purposes as a policy of insurance, if the lenders are not to be subject to particular average? . . . . These words [utterly lost] in a bottomry bond, received a construction in the case of *Thomson vs. The Royal Exchange Assurance Company*. (1 Maule & Selw., 30.) It was there decided, that nothing but an actual total loss, will discharge the borrower of money upon bottomry, and the distinction was taken between the contract of bottomry and of insurance. In the latter, the assured may abandon for a total loss when the ship is in such a condition, that her repairs will cost more than she is worth; but in the former, nothing short of a total destruction of the ship will constitute an utter loss. If she exists in specie, in the hands of the owner, it will prevent an utter loss. . . . Had the goods in the present case suffered damage on the voyage from Martinique to Philadelphia, the plaintiffs would have been answerable. But they received no damage, and therefore the defendants had no right to abandon. In whatever light, then, this case is considered, whether on the letter of the bond, or in the more enlarged view of a policy of insurance, the law and the merits are with the plaintiffs. They are therefore entitled to judgment upon the verdict. Judgment for the plaintiffs. (8 Sergeant & Rawle, 138.)\*

An insurable interest was adjudicated as existing in the case of one who was going out as supercargo from New York to the Isle of France and Calcutta and back, and by a writing, reciting that he was indebted to another in the sum of \$2,500, engaged to ship and consign to his creditor goods to the amount of the indebtedness, such goods arising from the supercargo's outward commissions, and in case of death of the debtor, or any accident happening to him, he assigned his commissions on the voyage and the proceeds thereof to his creditor; and, by another writing, of the same date, authorized the creditor to make insurance for \$2,500 on his commissions out, and the proceeds thereof out and home. The debtor caused insurance to be made in New York for \$4,000 for himself on commissions out and home, and delivered the policy to the creditor, who then had insurance made by the Philadelphia Insurance Company for \$2,500 on the commissions, valued at the sum insured, out, and on the proceeds of said commissions, as interest might appear, homeward, with the usual clause as to prior insurance. On the voyage home the ship was wrecked, and the debtor drowned; but the creditor received an invoice and bill of lading of goods, consigned to him on account, amounting to \$1,500. Some of the goods were saved and claimed by the New York underwriters, who paid part of their policy on a compromise with the creditor. Held (*Wells vs. Philadelphia Insurance Company*), that this was not a case of double insurance (and not affected by the clause known as prior insurance), being on account and for the benefit of different persons, and that the plaintiff had an insurable interest, the particular nature of which he was not bound to disclose. (9 Sergeant & Rawle, 103.)

There had been an insurance upon prospective profits, "warranted free from average and without salvage;" valued at \$20,000. The ship sailed from Canton with a cargo, but in consequence of bad weather, put into the Isle of France

\* A respondentia bond in form does not pass the right of property in the goods; but it is otherwise if the instrument is given for value or security. (*United States vs. Delaware Ins. Co.*; 4 Wash., C. C. R., 418.)

for repairs. Part of the cargo was so much damaged that it was thrown overboard; another portion, also damaged, was sold, and the proceeds reinvested, and these, with the sound part, arrived at Philadelphia, where it was found that some goods considered sound were damaged. Sound teas were sold at a considerable profit, but there was a loss of more than 50 per cent. on the whole goods; so no profit was realized. It was held (*Waln vs. Thompson*), that the interruption of the voyage was not a loss of it, and that "free from average" in a policy upon profits must receive the same construction as in a policy upon goods; therefore the underwriters were discharged. (9 *Sergeant & Rawle*, 115.)

There had been now twenty years of continuously decreasing premiums among the companies at this port. In the decade ended December 31, 1812, the average annual premium receipts of the Insurance Company of North America were \$136,464; average amount of annual losses paid, \$158,384. For the decade ended December 31, 1822, the average annual premiums were \$27,676; average annual losses, \$33,555.\*

As the effecting of insurance for commercial correspondents was part of the general commercial regulations pertaining to commission percentages, special rates were recommended for uniformity of practice by the Chamber of Commerce of the city, which had the force of usage when there was no specific agreement to the contrary. Such insurance commissions as framed March 10, 1823, were:—

## MARINE INSURANCE.

	Commission.
Premium not in excess of 10 per cent., . . . . .	$\frac{1}{2}$ % on amount insured.
" in excess of 10 per cent., . . . . .	5 % on amount of premium.
Adjusting and collecting losses without litigation, $2\frac{1}{2}$ % of amount recovered.	

## FIRE INSURANCE.

Any rate of premium, . . . . .	5 % on amount of premium.
Adjusting and collecting losses, . . . . .	1 % of amount recovered.

Such charges were presumed to be adapted to the position of the intervening party effecting the insurance or adjusting the loss as agent of the insured, and not of the insurer. For the difficulties in placing the most perilous marine risks, with the offices contracting rather than extending their operations, there was extra compensation, but for the great body of marine risks the commission was uniformly 5 per cent. on 10 per cent. of amount insured. Differences in merchandise premiums were too small to call for discrimination in the fire insurance commission rate, the commission being, as a rule, much less than 5 per cent. on one per cent. of amount insured. While the minimum of opportunity was thus allowed to the agent of the premium payer to profit by high premium rates, there was no mercantile objection to such agent collecting, in event of loss, the highest amount possible under the policy.

June 4, 1823, the Insurance Company of the State of Pennsylvania wrote a valued time policy on the bottom and furniture of the ship *Georgian*, for a general coasting trade. This policy, as to specific contents, omitting the general language of the marine contract, is here inserted:—

\* *Hist. Ins. Co. N. A.*, 163.

[No. 18,463.] This Policy of Insurance, Indented,\* made by and between the Insurance Company of the State of Pennsylvania, Assurers, of the one part, and Thomas Wright, . . . . .  
 [L. S.] Witnesseth, that the said Insurance Company have made Insurance and by these Presents do cause the said Thomas Wright and every of them to be insured in the sum of *Eight thousand* Dollars, lost or not lost, at and from Philadelphia with liberty to Trade Coastwise at any port or ports in the United States not South of the River St. Mary's in Georgia or East of Newport or Providence Rhode Island for Twelve Calendar Months, commencing on . . . . . upon the body, tackle, apparel, and other furniture of the good Ship called the *Georgian* of the burthen of . . . . . tons, or thereabouts, . . . . . beginning the adventure upon the said vessel, tackle, apparel, &c. at and from as afore-said, and so shall continue and endure until the said *Twelve months* are expired as aforesaid, and until she be moored twenty and four hours in good safety. . . . . The said vessel, tackle, &c. for so much as concerns the Assured, by agreement made between the Assured and Assurers, in this Policy, are and shall be valued at *Fourteen thousand five Hundred dollars for four-fifths of said Ship* without any further account to be given by the Assured to the Assurers, for the same. . . . . confessing themselves paid the consideration due unto them for the assurance, of the said sum of *Eight thousand* Dollars by the said Assured, or his assigns, after the rate of

*Nine per cent.*

In Witness Whereof the said Insurance Company of the State of Pennsylvania have caused their common Seal to be affixed to these presents, in Philadelphia the *Fourth* day of *June* one thousand eight hundred and *twenty-three*.

#### Memoranda.

1. It is agreed by and between the assured and assurers, that no loss shall be paid on any average under five per cent. unless the said average be general.

6. . . . . And in case of capture, or detention, the assured renounce all claims against the assurers, for demurrage, seamen's wages and provisions.

*By the Company*

*Dan'l Smith, Pres.*

#### (Endorsement.)

*No partial average to be paid unless it amounts to five per cent. on any one passage. This insurance is understood to be Against the Dangers of the Seas and what are deemed Peace risques. It is agreed that the above Vessel may proceed to any port or places in the United States or Elsewhere. Philad. 21 May 1824.*

(Policy No. 18,838, for \$4,000, dated November 7, 1823, on same vessel, intervened between the issue of the above policy and the endorsement of May 21, 1824.)

June 23, 1823, two per cent. additional premium had been endorsed on back of policy for liberty to make voyage to Kingston, Jamaica, and back to Philadelphia, with liberty to touch and trade at Turk's Island, with half per cent. return should Turk's Island not be used, etc. At date of endorsement removing restriction as to port of destination, May 21, 1824, policy No. 19,198 on freight to be earned (or against loss of the earning), by the same vessel, was issued. This freight insurance was a description of the voyage written on a hull policy, with this endorsement: "On  $\frac{4}{5}$  of freight valued at \$4000." The destination was Philadelphia to Rio Janeiro, with liberty of proceeding to Montevideo and Buenos Ayres for two per cent., with half per cent. return should the risk end with the vessel reaching Rio in safety.

In December, 1823, it was decided (*Wells vs. Archer*) that the possessor of a policy deposited as security has a lien on it at law, and if he receive the

\* This word was both a superfluity and an inaccuracy. The insurance policy is of the nature of a deed poll, and as a single instrument was not a subject for indentation.



proceeds, has a right to retain them against one whose equity is not better than his own. (10 Sergeant & Rawle, 412.)

There was another relief afforded to depressed marine offices by the indemnification received from Spain in 1823 (under the treaty for the purchase of Florida), for confiscation of American vessels and cargoes during preceding European conflicts.

With inland navigation, perils of "rivers" was added to the policy terms. Steam as a motor on the waters came gradually, and the underwriter waited upon the results of experience. The marine contract had been found equal to sudden and new emergencies as they came, and a portended revolution in navigation was to the insurer no radical change in the hazard. There was only a special condition to be provided for. Schooled in peril, the marine insurer was not, like the after-distributors of jeopardy, controlled by fear. He knew danger as his stock in trade. As to the fire-made steam, he was already specifically and expressly responsible for fires. As to the bursting of boilers and breaking of engines, there were the terms of the bond reaching to every "peril, loss, or misfortune which have or shall come to the hurt, detriment, or damage of said vessel, or any part thereof," in a broad, if not unlimited implication. He had assumed the risk of human life beyond any venture of a life office for a term of years; he had accepted casualty to the person exposed to the pirate and barbarian cruiser; he was practicing an essential fidelity insurance, and so insuring where the laws of nations would hardly reach. But his boldness was decreasing and his caution augmenting; yet, conforming to the spirit of his traditions and usage, he, or his corporation (converse terms in this instance), insured the hazard of steam explosion shunned by the fire insurer, in so far, at least, as a direct navigation risk.

The Philadelphia personal marine underwriter now disappearing, left the broker to negotiate with the corporations, and the latter pursued whatever there was of his business for his own account, and not as representative of the companies. Companies of different places invited risks outside of their own localities by correspondence and otherwise. Commission merchants and other business men began to obtain marine or fire policies for persons desiring their service for such end, and such intervening was expanding as insurance advanced. In 1824, Ralston & Lyman, South Front street, were dealers in marine and fire risks, as well as American sewing twine, kerseys, etc. They offered the insurances they procured at "the very lowest rates," including every description of maritime risks.

Accredited agents of insurance corporations were part of the underwriting *personnel* early in the century. No legislative doctrine, conjecture, or hostility, as to corporate underwriting or agency representation, was embraced in the terms of the act of March 10, 1810. It was simply an interdiction of foreign or non-American insurance. The insurance corporation was not as yet, in Pennsylvania, the subject of specific statutes beyond the act of incorporation, and other-State corporations of all kinds could enter Pennsylvania upon a common footing, with little, if any, prescribed regulations beyond the obligations

of natural persons. As legislation is, however, but the expression of the animus of the hour, or current dominant influences, the future was, of course, uncertain. April 30, 1824, Joshua Haven and Richard Somers Smith, being the firm of Haven & Smith—the largest general commission merchants of the city at that date—were constituted by power of attorney, agents of the Mercantile Marine Insurance Company, of Boston, at the port of Philadelphia, to sign and deliver agreements for policies on vessels engaged in foreign or coasting trade rated in the city of the first and the second class, and also upon cargoes of such vessels and the freights for such cargoes. Rates and lines were laid down as follows:—

## VOYAGE.

To New York, Boston, and all points within the Capes of Virginia and Maryland, 1 per cent. per single passage, not exceeding \$7000, and on regular packet vessels.

To Charleston, Savannah,  $\frac{5}{8}$  per cent.

To New Orleans and Mobile, not both, 1 per cent. per passage.

To Matanzas and Havana, out and home, 2 per cent., or 1 per cent. single passage.

To south side of Cuba,  $2\frac{1}{2}$  to  $2\frac{1}{4}$  per cent., out and home, or  $1\frac{1}{4}$  to  $1\frac{1}{8}$  single passage; not exceeding \$8000.

To West Indies, out and home,  $2\frac{1}{4}$  per cent., *excepting hurricane months, from August 1st to October 10th*; not exceeding \$8000.

To *Laguaira* only, on the Spanish Main, *not exceeding \$5000*,  $3\frac{1}{2}$  per cent., out and home.

To port or ports in Brazils, this side of Cape Horn, out and home,  $2\frac{1}{2}$  per cent., with addition of  $\frac{1}{2}$  to  $\frac{1}{4}$  per cent. if to the River La Plata; not exceeding \$10,000.

To Liverpool or a port in England, out and home, 2 per cent., or 1 per cent. single passage.

To a port in France, out and home, 2 per cent., or single passage 1 per cent.; insurance not exceeding \$15,000.

To the Mediterranean, out and home, 2 per cent., or 1 per cent. single passage; insurance not to exceed \$15,000.

To a port in Holland, out, 1 per cent., vessel to leave before 15th October; home, 1 per cent., vessel to leave not later than 1st November; insurance not exceeding \$10,000.

To Hamburg, Bremen and Antwerp, same rate as to Holland, and same limits.

To St. Petersburg, Stockholm or other places in Sweden, out, 1 per cent.; home, if vessel leaves by September 1, 1 per cent.; if after that date,  $1\frac{1}{2}$  per cent.; insurance not over \$10,000.

To Canton, out and home, 3 per cent., or  $1\frac{1}{2}$  per cent. for single passage; not exceeding \$30,000.

East Indies generally, same; not exceeding \$30,000.

For Canton and India risks, same, if vessel sails from Europe and returns to Europe, or the United States, *not both*.

## TIME.

Vessels on time employed in European trade,  $5\frac{1}{2}$  per cent., and in the coasting trade 6 per cent. per annum, *always excepting the Spanish Main (that is from the Oronoko to the Sabine River)*; not exceeding \$10,000 for those in the European and \$7,000 for those in the coasting trade.

C. F. Sibbald, South wharves, represented the novelties in the policy issues of the time. He was agent of a Traders' Insurance Company, and was ready to "effect insurance in any part of the United States or Canada" against loss by fire;—"also against loss or damage by inland navigation or transportation on vessels, steamboats, flats, barges, or keel-boats on the Mississippi and its waters, or on any bay, river or lake in the United States or Canada."

Shares of the capital stock of the United States, the latest corporate marine insurance creation, were selling at less than one-half of the amount paid upon them—about one-half of the capital having been absorbed by losses in excess



of premiums. Business was temporarily suspended in 1824 pending a determination of the action to be taken in view of the company's reduced assets.\*

The course of adjudication was fixing, as a local interpretation, the scope and application of the local policy as a maritime contract. In the Supreme Court, in March, this year (*Walker vs. The United States Insurance Company*), there was decided to be a total loss, under the following circumstances: A vessel lying at anchor, beginning to drag, in a storm, sternforemost upon a reef, both cables were cut and sail hoisted to get out to sea, but the vessel became fast upon Ragged Staff. Here she bilged, and everything was afloat fore and aft, and then the masts were cut away to prevent them working through the bottom. But there was this exception: Cables, anchors and masts, sacrificed for the common benefit while the vessel was on the reef, were charges in general average, notwithstanding the sacrifices were ineffectual to save the vessel from total loss. (11 Sergeant & Rawle, 61.)

In New York and Massachusetts, corporate insurance organization had become more rapid and more numerous than in Pennsylvania. This begat active competition. For fifteen years there had been no accession to the Philadelphia marine companies, but, February 23, 1825, an Act was approved to

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\* Horace Binney, counsel of the company, having been consulted as to expedients involving no charter reduction of capital, answered, September 13, 1824, as follows:—

"I have reflected upon the arrangement submitted to me, for the renewal of business by the United States Insurance Co., in which the main points for consideration are,

"1. The right of the Company to operate under the present charter with a diminished capital of say from one to two hundred thousand Dollars, or with any sum less than Four hundred thousand, so as to make dividends of profits &c.

"2. The authority of the company in any way to appropriate claims against France &c, for the benefit of such stockholders *only* as at present have an interest in the Company, excluding all who may hold shares hereafter sold by the Company.

"On the *first* point the charter is so explicit, that I entertain no doubt whatever, after examining it, of the illegality of any dividend until the Capital of Four hundred thousand dollars is made up. The first clause of Article I, section 3, says that the Capital Stock does and '*shall at all times hereafter amount to Four hundred thousand Dollars*'; and the fourth clause of Article IV, directs that 'in case any loss shall at any time happen by which the Capital Stock shall be diminished, no dividend shall be made until the amount of such diminution shall be replaced & added to the capital.' Legislative aid therefore to enable the Company to declare dividends while the Capital of Four hundred thousand Dollars remains incomplete, is essential. It cannot be done by any consent of parties, under the present Charter.

"The *second* question is of much greater difficulty than I at first thought it. The shares of stock now belonging to the Company, and which it is proposed to sell, must be considered as *actually existing* in their hands, otherwise they cannot be sold and transferred to purchasers, for the Company certainly cannot *create* stock; and if these shares do exist at present, I think it extremely difficult for the Company to make any disposition of the common funds, which shall redound to the benefit of a portion of the shares only.

"This difficulty does not arise from the want of equity in such an arrangement, for if perfectly well known, there can be no want of equity in it; but from the want of legal power in the Company to make it. The Corporation is a trustee for all the shares, and equally for them all. If the funds remain *vested in it*, it cannot dispose of them in favor of any particular stockholders, for the Charter gives no such authority; all the stockholders are equal, and so must continue under the present Charter:—and if, as I first thought it might be done, the corporation should transfer the claims to Trustees for the use of particular stockholders, before any purchases of the Company's shares are made, this is a separation of those claims from the Capital Stock, and might be regarded as contrary to the Spirit of the 4th clause of Article IV, the real intent of which is to prohibit anything being separated from the capital for the use of the Stockholders, while it remains incomplete.

"Upon the whole, as I think a reference to the Legislature for the reduction of the Company's Capital is indispensable, I prefer recommending them to the same aid for the provisions that may be wanted in regard to the French and other claims. I would remark however, to prevent misunderstanding, that when I say the capital of 400,000 drs must be complete, before a dividend can be made under the present charter, my meaning is that the Capital must amount to fifty Dollars for every share outstanding in the hands of stockholders. This is perhaps more accurate than to say it must amount to 400,000 drs; for as the Company is authorized by charter to invest its '*Capital stock and funds*' in '*its own stock*', it may be a just inference from this, that the Company has the right in this manner from time to time to reduce the capital below 400,000 drs. If the Company sells out all its shares, then certainly the capital must amount to 400,000 drs before a dividend can be made."



incorporate the Atlantic Insurance Company of Philadelphia; chartered capital stock, \$300,000—\$100 per share. Included in the insurance privileges conferred was power to make "all kinds of insurance upon the inland transportation of goods, wares and merchandises." At a meeting of the subscribers to the stock, held March 21, at the Merchants' Coffee House, these shippers and merchants of the city were elected directors:—

Thomas P. Cope,  
Joseph Gratz,  
John R. Neff,  
Charles A. Harper,

John Hemphill,  
Samuel Grant,  
John McCrea,  
Jacob Sperry,  
William Waln,

Samuel Jaudon,  
Capt. A. Sharpe,  
Jacob S. Waln,  
Richard Oakford.

William Waln was elected president. Largely the stockholders of the new company were stockholders of the older marine offices. Interested both as insurers and insured, as were or would become the proprietary of the Atlantic, the "divided duty" was not likely to be of serious result to the company. If parties in any business organize as an insurance body solely for the purpose of benefiting their particular business interest, a very poor kind of insurance is set up, as the underwriter should be paramount and rigidly above all concessions to the insured at the expense of security. Herein and hereby the joint-stock method had its growth, against the theoretically greater equity and consistency of the mutual method. At a former day there had been some instinctive appreciation of the principles here involved, but though the contract was a personal one, the personal element of hazard was, properly enough, *per se*, deemed subordinate to the controlling fact that the risk was upon property—contract of stockholder with his corporation was not a contract of one with himself—and the charter of the Insurance Company of North America provided that "any member of the corporation may, nevertheless, become insured thereby on any vessel, goods, wares, merchandise, or lives, in the same manner and with the same effect as if such member had no interest in the corporation."

When the Atlantic began, the New York and Boston marine offices were struggling with rates at a minimum and losses at a maximum, and inroads, from this and other causes, had been made in at least one instance, as has been stated, upon Philadelphia marine capital.\* On the day the Atlantic was

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\* An insurance correspondent of a Boston daily journal, writing in January, 1826, thus presents the position of marine insurance in 1825, from the Boston standpoint:—

"I have a list before me of 11 ships, 6 American, 4 French, and 1 Swedish; 28 brigs, 25 American, 2 English, and 1 Spanish; 22 schooners, 21 American and 1 English, that have sustained partial damage or been totally lost on the Bahama banks or reefs of Florida in the year 1825. The greater proportion of these vessels were proceeding to or returning from the several ports above mentioned. [Cuba, Mobile, New Orleans, and the lower ports of the Gulf of Mexico.] In cases of salvage the property thus rescued was destined to become the prey of men and usages more insatiate than the elements.

"The aggregate value of the 62 vessels and their cargoes may be computed at \$700,000, and I believe would exceed rather than fall short of that sum. I will instance a few cases: The brig Hercules, from New York to Mobile, with a cargo worth \$140,000, ransomed from the wreckers at Key West for \$70,000; this loss may be safely estimated at \$80,000, to include the damage on cargo and incidental charges. The ship Crawford, from New York for New Orleans, struck upon the Bahama banks, when her masts were cut away, and goods estimated at \$70,000 in value jettisoned; the vessel with the remainder of the cargo was conducted to New Providence by the wreckers, where the liberality of arbitrators, *disinterested* no doubt, awarded a sum equal to \$30,000—making the aggregate loss \$100,000. The ship has been abandoned to the insurers, and is now [January 27, 1826,] advertised for sale by them. The schooner Junius, from New York for Alvarado, with a cargo valued at \$100,000, was lost on the Bahama banks, and but \$10,000 saved. The schooner George Washington, from Philadelphia to Mexico, with a cargo of \$100,000, was totally lost near the Salt Keys. The brig John Odlin, from Genoa to Alvarado, was totally lost on Hencago reef.

chartered, an act of the legislature reduced the capital stock of the United States to \$200,000—shares \$25 each. Prices of marine insurance stocks were largely sustained by the expectation, as they had been by the former receipts, of reimbursement for the “takings at sea” by the European belligerents. The following were market prices of Philadelphia insurance stocks, fire and life, as well as marine, in February, 1822, and in July, 1825:—

	Paid in.	Sales.	
		1822.	1825.
Insurance Company of North America, . . . . .	\$10	\$14 50	\$11 20
State of Pennsylvania, . . . . .	400	532 00	470 00
Philadelphia, . . . . .	100	170 00	137 50
Union, . . . . .	60	66 00	69 50
Phoenix, . . . . .	80	84 00	80 00
Delaware, . . . . .	40	55 00	45 00
Marine, . . . . .	60	113 50	99 00
United States, . . . . .	50	20 00	19 00
American Fire, . . . . .	40	50 00	51 00
Pennsylvania Co. for Ins. on Lives and Gr. An., . .	20	. . .	18 00

Whatever might have been the threatenings of the time, the Atlantic was launched for the storm as well as the calm. Before the close of July \$40 per share of the capital was paid in, but it did not command in the market over \$39. Before the close of the year, December 16, policy No. 945 was written: Brig Emeline, Philadelphia to Alvarado, \$5,000, goods, 4 per cent.; by July 19,

with a cargo which cost, as I am credibly informed, \$100,000. These are vast sums, I know, and may appear overrated, but they are not. They are as susceptible of proof as any every-day occurrence, and I believe a confirmation of most of them may be found among the insurance companies in New York, as well as a proportion in this city. [Boston.]

“There remained 57 vessels and cargoes to be added to those already detailed, and which I estimate at \$470,000. Would it be hazarding too much to say that [the loss on] the 57 vessels and their cargoes would average \$4,000 each? I think not; and if the schedule I have prepared would not transcend the limits of a newspaper, I would lay it before your readers, who would, I believe, be convinced that my estimate of the aggregate loss was less than the reality.

“The question here presents itself, what are the insurance companies to do to avert the ruin that may be expected? . . . . . Advance the rate of premiums to meet the exigencies, and leave a fair profit upon the business. The present rates are too low on almost any class of risks. . . . . Assurers must submit to it. If they will not, stockholders must protect themselves. . . . . The depression of stock will continue until the present competition for business is changed to a regard for reasonable profits. . . . . I put it to any well-informed merchant to say whether *one* per cent. to Cuba, Mobile and New Orleans, and *one and a half* to Mexico and Columbia, are equivalent to the losses here enumerated. . . . .”

Mere amount of loss could, however, prove nothing to the merchant, unless he had knowledge of amount of risk. We present in connection with what has been cited of Boston marine rating (including the scale of the Mercantile before given), the suggestion of the annexed instances of rates of Philadelphia companies:—

Insurance Company of North America: Policy 18,638, January 19, 1825, ship Susan, Hamburg to New York, \$1,050, goods, 2 per cent. (The marc banco to be valued at 36 cents.)

The Insurance Company of the State of Pennsylvania: Policy 19,953, June 28, 1825, schooner Elizabeth, Alvarado to Philadelphia, \$10,000, cochineal and specie, both or either, 1¼ per cent. (In the Philadelphia, \$12,000, same rate—policy 7769.)

The Marine: Policy 7682, October 21, 1824, schooner Sophia, Alvarado to Philadelphia, \$8000, specie or cochineal, or both, 2 per cent. Policy 7818, June 6, 1825, brig Moro, Philadelphia to Alvarado, \$1400, goods, 1½ per cent. Policy 7917, November 30, 1825, brig Hibernia, Hamburg to Philadelphia, \$5500, goods, 2½ per cent. Policy 7932, December 20, 1825, schooner Little George Eyre, Philadelphia to Porto Cabello, \$12,000, goods, 2 per cent. Policy 7948, January 31, 1826, brig Bordeaux, New York to Vera Cruz, \$8000, goods, 3½ per cent. Policy 7992, March 18, 1826, brig Mary, Philadelphia to Vera Cruz, \$3000, goods, 3½ per cent.

The Delaware: Policy, Philada W, 1654, March 4, 1824, schooner Sophia, Alvarado to Philadelphia, \$7000, goods and specie, 2 per cent. Endorsed: “It is mutually agreed that the assured shall not abandon in consequence of the port of destination being blockaded, but shall have liberty to proceed to one other port not blockaded, at the risk of the assurers, and in case of capture or detention not to abandon in less than 60 days afterwards, unless previously condemned.”

The Philadelphia: Policy 7853, October 3, 1825, brig Saunders, Philadelphia to Warnick (James river, Va., at and from thence to Rio de Janeiro and back to Philadelphia), \$10,000, goods, 2¾ per cent.



following, policy 1542 was issued, brig Ontario, Vera Cruz to Philadelphia, \$12,000, goods,  $1\frac{3}{4}$  per cent.; policy number being, in the general usage, an uncertain indication of number of risks, as under the same number different risks might be covered.

As yet every insurance corporation founded in the city was continuing. There was, however, more stability than either prosperity or development. The Philadelphia marine writer was still the most competent master of sea risks; in life insurance there was no competition, but in fire insurance practice other cities were taking the lead in advanced methods. Originating influences were, however, so far a defence against disasters elsewhere disclosed. At the close of 1825 there were twelve New York marine offices, the stock of four of which was above par, six under par, and no quotations could be given for the remaining two. Of thirty-one New York fire insurance companies, five were above par, twelve below par, and fourteen without any price. (Total authorized capital of the New York insurance companies was \$26,350,000; paid in, \$16,033,731.) In the three years 1823, 1824, 1825, eleven companies went into operation in Boston, and there were nine doing business before these were started. The introduction of so much crude and ignorant practice was more conducive to insurance shipwreck than the dreaded "Bahama Banks"; the shares of the older offices fell off more or less than one-half of the value they had at the beginning of 1823, but such of the newer companies as declared dividends kept the price of the stock not far from the paid-in value, while others underwent a severe decline. A writer in the Boston Daily Advertiser, referring to such depreciations, said: "When it is remembered that these companies have an annual income of about \$18,000 each, which has been sunk in those cases where no dividends have been made, it would seem that they have fared no better than the older institutions, if as well. . . . Various causes have operated to produce this state of things; among the first of which may be placed the spirit of speculation in stock which prevailed about the years 1822 and 1823, in consequence, in part, probably, of the plenty of money at that time. [Competition and cutting of rates are instanced as chief reason.] It is said, also, that the great and unusual losses by fire have contributed to produce this effect; but this is only true so far as regards the fire insurance companies, and they must contemplate [expect] great inequalities in the result of their operations, since extensive conflagrations ever have and ever will be recurring. Their rates of insurance have been advanced."

In 1825, William Craig, 8 Chestnut street, as agent of the American Insurance Company of Boston, was receiving orders for marine risks.

While the purchase of "Louisiana" from France, in 1803, had transferred to the government of the United States the indebtedness of France to American claimants for maritime spoiliations prior to 1800, demands upon France for such spoiliations subsequent to 1800 had, however, not been disposed of in any such manner, and a meeting of persons interested in such claims was held at the Merchants' Coffee House, January 17, 1826; Henry Pratt was appointed chairman, and Manuel Eyre secretary. These resolutions were adopted:—



*Resolved*, As the sense of this meeting, that the ordinary means of negotiation having failed, it would be wise, prudent, and conformable to former precedents under analogous circumstances, to institute a Special Mission or Embassy to France, for the purpose of demanding a restitution of the property of the Citizens of the United States, of which they have been forcibly deprived.

*Resolved*, As the sense of this meeting, that while a Special Mission is in its nature essentially pacific and conciliatory, it would, in case of failure, have a tendency to unite the American people, and strengthen the arm of the Government, should it ultimately be compelled to adopt other measures to vindicate the rights and honor of the country.

*Resolved*, That Daniel W. Cox, Jacob Ridgway, William Montgomery, John Inskeep and Hugh Colhoun, be a Committee to draft a respectful Memorial to the President of the United States, in conformity to the foregoing resolutions, and that said Committee be requested to correspond with those interested in French Spoliations in the other sea ports of the United States, and to invite their co-operation in the proposed application to Government.

Hope was not altogether abandoned that what was due by the United States would ultimately be paid, and reliance was placed upon the validity and value of the constitutional prohibition: "Nor shall private property be taken for public use without just compensation." European publicists made no contest against the underwriters' claims on the ground that war premiums compensated for war losses outside of salvage restitution, and an American jurist, Phillips, said (1823), "in cases of capture and detention, insurance would afford a very inadequate indemnity to the assured without the right to abandon, and in many cases of sea damage the indemnity would be long delayed and very difficult to adjust." If the underwriter speculated on war chances, he did so under the maritime law. He protected American commerce in its exigencies, and did so to his loss. He was, however, bound by his bargain and its results, but he made his premium under the condition that the ownership of the abandoned property passed to the insurer, and thereby only was the rating presumably adequate. The insurer was no more entitled to his premium than to his salvage.

The agencies, as a competitive force, stirred up the animosities of trade rivalry, and restrictions upon companies of other States became a legislative topic, and the courts were adjudicating the application of the writ of foreign attachment to non-State corporations, or rather to a corporation, and the rulings brought the corporation nearer to the legal position of the person, but with a defined and limited order of being. John Bushel and William Seaward attached property of the Commonwealth Insurance Company, a corporation of another State, in the hands of Ralston & Lyman, as garnishees, and in the Supreme Court, on rule to show cause why attachment should not be dissolved, the opinion by Judge Rogers, Judge Duncan dissenting, set forth, in respect to the manner in which the attachment might be dissolved, that " . . . the corporation cannot appear except by leave of the court. In *Carthew*, 26, it was agreed by all that a foreign attachment, in London, is to no purpose but to compel an appearance of the defendant in the action, for if he appear within a year and a day, and put in bail to the action, the garnishee is discharged, but without bail they will not accept an appearance. . . . As a foreign corporation cannot from their nature give the plaintiffs security by the body, the highest security known to the law (4 *Sergeant & Rawle*, 564), it is but reasonable that the attachment should be dissolved upon their giving

the next best security for the debt which may be found to be due, together with costs of suit. . . . We are of the opinion that the defendants take nothing by their motion, but upon their giving bail for the payment of the debt, interests and costs, on the affirmance of the judgment against the corporation, the court will permit the defendants to appear, and on motion will dissolve the attachment."

A law of Massachusetts, approved March 10, 1827, was followed by a like enactment in Pennsylvania. The bill was passed against somewhat counter-propositions. In the discussions and comments attending the proposal of such a law, it was construed by some as inimical to the agents, but it was simply adverse to the indiscriminate introduction of companies by any body, and for the first time the proper agency of a non-State insurance principal was made a subject of State authorization. It, however, embraced, besides, a State limitation as to the writing of risks by the non-State company. This was not in conflict with general office practice, but it imposed upon other-State offices a condition not exacted from those of the State, and assumed by its terms to dictate in the particular respect the writing of risks by other-State companies out of the State. Whether the new statute, by implication, excluded mutual companies, was matter for judicial interpretation. Otherwise it appears to have applied to insurance of all kinds. Amount of "one risk" (an indefinite technical designation) never in excess of 10 per cent. of capital stock was legislation in behalf, real or supposed, of the stockholder rather than the policyholder, and so far as the principle of such enactment had any fitness as a legislative rule, it applied to the contingency of small proprietors, or persons insured for small amounts in mutual organizations, exposed to the exceptional large risks of others. The Massachusetts idea had, however, more or less repetition, as to fire insurance, in the after State legislation of the country. The Pennsylvania law was as follows:—

*An Act concerning Agencies of Insurance Companies not authorized by the Laws of this State, established within this Commonwealth.*

SECT. 1. Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That if any person or association within this commonwealth shall make, renew, or cause to be made or renewed, directly or indirectly, on account, or in behalf, or as the agent, of any body politic or corporate, not within this commonwealth, or authorized by a law of this commonwealth, any contract of insurance, or by way of insurance, with any citizen or corporation of this commonwealth, before the said person or association has left with the treasurer of this commonwealth a true copy of the charter of the corporation, on account of which or on behalf of whom such agent shall act, and a copy of the letter of attorney granted him by such corporation, any person or association so offending shall forfeit or pay the sum of five hundred dollars for every such offence, the one half to the informer, the other half to the use of the commonwealth, to be recovered as other debts of a similar amount are by law recoverable.

SECT. 2. And be it further enacted by the authority aforesaid, That it shall be the duty of every agent aforesaid, before making or renewing any contract of insurance as aforesaid, and annually thereafter on the first day of January, to deposit with the treasurer of this commonwealth a statement signed and sworn to by a majority of the directors of the corporation for which he acts, specifying the amount of its capital, and the manner of its investments, designating particularly the amount respectively invested in mortgages, in public securities, in stock of incorporated companies, stating what companies, and also the amount invested in other securities, particularizing each item of investment. And the agent aforesaid shall publish said statement in some newspaper within the city or county wherein he transacted the business of his agency; and any person effecting or causing to



be effected insurance contrary to the provisions of this act, shall forfeit and pay for each and every offence the sum of five hundred dollars, to be recovered in manner hereinbefore provided.

SECT. 3. And be it further enacted by the authority aforesaid, That it shall not be lawful for any person or association to act as agent for or on account of any insurance company or corporation, not authorized by the laws of this commonwealth, in making or renewing any contract of insurance for or on account of any such company, with any person or company within this commonwealth, unless the capital stock of the company for which he or they may act, shall amount to the sum of two hundred thousand dollars, actually paid in money, and invested exclusive of the obligations of the stockholders in any shape; nor unless such company shall be restricted by its acts of incorporation or otherwise so that it cannot lawfully insure in any one risk a sum greater than ten per cent. of the amount of its capital; and any person offending against the provisions of this act, for each and every offence shall forfeit and pay the sum of five hundred dollars, to be recovered in the manner provided in the first section of this act. Approved April 13, 1827.

The signs of the times were pointing to the after predominance of fire over marine insurance, though the indications were yet slight and the supremacy of marine insurance assured for many years. Notably, Salem, Massachusetts, that important commercial town and port of entry, which early led the East India trade of the country, was exemplifying the difficulties and uncertainties of the marine practice. Marine offices there were on the verge of closing, particularly the more recent ones, and those promising most stability were not paying, as a whole, dividends equal to the interest earnings of the capital stock. The argument against new marine companies was that the business was overdone.

The act of April 13, 1827, concerning agencies, had a brief period of practical application, and it had the novel result of producing at least one public statement of insurance assets. Such exhibit could make no disclosure of the position of a company, whether bankruptcy was impending or not, but where all was done in the dark the feeblest ray of light was of the brightness of an illumination. First to comply with the regulations and exposition specified were Haven & Smith, of the Mercantile Marine Insurance Company of Boston, who deposited with the State treasurer the affidavit of ten directors, being "a majority" of the board, who had personally appeared before Steven Cadman, Esq., a notary public, etc., etc., "and severally made solemn oath that annexed Statement of the Capital Stock and Debts due the said Company" is just and true. This statement is here presented in something of a condensed form:—

MERCANTILE MARINE INSURANCE COMPANY OF BOSTON.

*Statement of Capital Stock and Debts due said Company, April 30, 1827.*

Capital, \$300,000.

Shares in various banks of Boston and of the Norfolk Bank, Roxbury, valued at par, but much below their cost and present value, . . . . .	\$224,000 00
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*Loans.*

Mortgages of Real Estate, . . . . .	44,343 72
Loans on Bottomry and Respondentia,* . . . . .	40,918 00
Loans secured by bank stock collaterals, . . . . .	17,905 54
Balance, cash on hand and in agents' hands, . . . . .	9,048 95

\$336,216 21

\* One form of respondentia bond not having the insurance association of the Philadelphia bond was as follows:—

"Know all men by these Presents, that we, A B, master of the ship W, in the service of B A, and D C of are held and firmly bound unto P C, of in the sum of dollars, good



In addition to the above the company have ample funds in Premium Notes not yet due on risks which have terminated, more than sufficient to cover all unadjusted losses and outstanding claims on the Corporation.

In giving such one side of an account having at least two sides, there was, or should have been, a question as to whether bottomry and respondentia loans were not as much *risks* as *assets*, being insurances as well as mortgages, but the time passed without such question arising.

In an adjudication upon freight insurance in 1828, it was shown (*Adams vs. The Insurance Company of the State of Pennsylvania*) that breadth of implication on the ground of usage could not convert the value of a cargo in money into such cargo as earning freight; in other words, property might exist as to value and a policy be delivered without the risk existing in the policy sense.

The plaintiff brought this action on a policy dated September 2, 1822, on the freight earning of the brig *Shamrock*, valued at \$4,000, on a voyage at and from Gibraltar to Bourdeaux, at and from thence back to Philadelphia, at a premium of 2 per cent. . . . The *Shamrock* sailed from Gibraltar for Bourdeaux on the 28th of June, without a cargo, but having on board \$20,000 in specie, to purchase a cargo;—that is to say, the value in a particular form which the brig was to transport. On the 7th of July the brig was lost near Aveiro, in Portugal. One keg of specie containing \$4,000 was lost, and the remainder saved. The voyage was broken up, and the plaintiff claimed for a total loss of the freight insured. The jury found a verdict in his favor, subject to the opinion of the court on the whole evidence. . . .

For the plaintiff it was contended that while this was nominally an insurance on freight, in reality it was not so, nor was such the understanding of the parties. The plaintiff was the owner of both vessel and cargo. The owner who takes the merchandize of others, contracts to receive a compensation in freight. When he ships goods of his own, he must

and lawful money of the United States of America, to be paid to the said P C or \_\_\_\_\_ to which payment well and truly to be made, we bind ourselves, jointly and separately, our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, dated \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_

"Whereas, The above named P C has, on the day of the date above written, advanced and lent unto the said A B and D C the sum of \_\_\_\_\_ dollars upon the goods and merchandise and effects laden and to be laden on board the good ship or vessel called the W, of the burden of \_\_\_\_\_ tons, or thereabouts, now riding at anchor in the river D—, outward bound to H—, and whereof A B is master, through the acceptance by the said A B of a bill of exchange to that amount, at \_\_\_\_\_ months' date, for the account of the aforementioned A B and D C. Now the Condition of this Obligation is such that if the said ship or vessel do with all convenient speed sail out and depart from the said river D— on her voyage to H— and therefrom do sail and then return to the said river D— at or before the expiration of \_\_\_\_\_ months from the day of the date above written, and there end the voyage so intended (the dangers and casualties of the seas excepted); and if the said A B and D C, or either of them, their or either of their executors or administrators, do and shall, within \_\_\_\_\_ days next after the said ship or vessel shall have arrived at her moorings in the said river D— from such voyage, or at or upon the expiration of the said \_\_\_\_\_ months to be accounted as aforesaid, (which of the said times shall first and next happen,) well and truly pay, or cause to be paid, to the said P C, or \_\_\_\_\_ the full sum of \_\_\_\_\_ dollars, lawful money of the United States of America, being the principal of this bond, together with \_\_\_\_\_ dollars of like money for each and every calendar month, and so proportionably for a greater or less time than a calendar month, for all such time as shall be elapsed and run out of the said calendar months over and above \_\_\_\_\_ months, to be accounted for from the date above written; or if during the prosecution of said voyage, and within the calendar months aforesaid, an utter loss of said ship or vessel by fire, enemies, men-of-war, or other casualties and perils of the seas, shall unavoidably happen, and the said A B and D C, their heirs, executors, or administrators, do and shall, within calendar months next after such loss, well and truly account for, upon oath if required, and pay unto the said P C, or \_\_\_\_\_ a just and proportionable average on all the goods and effects of the said A B, carried from the United States on board the said ship or vessel, and the net proceeds thereof, and on all other goods and effects which the said A B shall acquire during the said voyage, for or by reason of such goods, merchandise, and effects and which shall not be unavoidably lost, then the above written obligation to be void and of no effect, else to remain in full force and virtue."

There was no settled form of such contract, but the sea risks had to appear to justify the marine interest. In *theory*, the hypothecation of the cargo was to be resorted to in case the hypothecation of the ship and freight (bottomry) was not sufficient for the exigency.

"These terms [bottomry and respondentia] are also applied to another species of contract which does not exactly fall within the description of either; namely, to a contract for the payment of money, not upon the ship and goods only, but upon the mere hazard of the voyage itself; as if a man lend 1000*l.* to a merchant; to be employed in a beneficial trade; with a condition to be repaid with extraordinary interest in case a specific voyage named in the condition shall be safely performed."—*The American Practical Lunarian*, by Thomas Arnold: Philadelphia, 1822, 745.

rely on their profits for his compensation. This is a clear, defined, and lawful interest, fairly to be calculated on, and therefore a fair subject of insurance. Such an interest is insured directly, under the name of profits, where goods are on board out of which profits may arise; or, indirectly, under the name of freight, which is resorted to where it is not certain whether goods will be on board or not, but where a reasonable expectation exists that such will be the case in any part of a continued voyage or series of voyages forming an entire transaction. . . . If, instead of money, the brig had had on board goods, on the voyage to Bourdeaux, the plaintiff would have been entitled to recover; and there is no difference, except that money pays freight per cent., and goods per ton. The freight lost upon this cargo of dollars from Gibraltar to Bourdeaux, by the agreement of the parties, was \$4,000. . . .

On the part of the defence it was argued that the contract meant is the contract by a third person to ship on freight, not to supply a cargo for the owner of the vessel to ship for himself. It is a fixed principle that the insured must have an interest at the risk of the perils in the policy, and it must continue and be subsisting at the time of the loss. (Phillips on Ins., 26, 27.) The freight on goods shipped is such an interest.

Huston, J.:

. . . . It was settled long ago, that although the goods are ready to be loaded, if none of them are actually on board and the vessel is driven from her moorings and lost, there can be no recovery on an insurance on freight. (2 Stra., 1251.) . . . Most of the cases on this subject have been cited in the argument, and I have carefully examined them, and have come to the conclusion that, according to the decided cases, the defendants are not liable in this case. . . . There was no cargo purchased for her; there was no contract on which any person was liable, if she was not loaded; it is not within any of the decisions or any settled principle of decision, and the judgment must be entered for the defendants. (1 Rawle, 97.)

The act of April 13, 1827, was not sufficient to satisfy a trade rivalry which would rather crush a rival than compete, and the entrance of other-State companies within the State of Pennsylvania in greater numbers than heretofore was now probable if not prevented by hostile legislation, which was accordingly invoked.

The underwriter should be more of a political economist than the merchant is, but he had not been. Harmony of the individual interest with the general interest was enforced by all the teachings of average accounting, but the trader in insurance had excluded the economist. In underwriting ordinary trade competition was intensified, and in the competition and hostilities of trading corporations the non-State corporation occupied the disadvantageous position of being a foreigner. The principle which had stricken down the agencies of one body of foreign corporations was applicable to the other body, and the blow came, not in the form of direct prohibition, but prohibition by a tax impossible to be paid; and in addition to the disguise of a nominal taxation, a monopoly of underwriting within the State was accorded to the State corporations—all insurance, all in relation to insurance by the personal citizen, being implied or assumed as an essentially corporate proceeding. The following was the text of a law which made one dollar of premium received by an other-State company the equivalent of eighty cents received by a State company, while, as a business matter, from the differences in position, a greater charge for expense was to be made against the eighty cents of the other-State company than the eighty cents of the State company.

*An Act relative to Insurance Companies and Agencies of Insurance Companies not chartered by this State.*

SECT. 1. Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That any person or persons within this State, who shall act as an agent or agents for any individuals, or association of individuals, not incorporated and



authorized by the laws of this State, to effect insurances against losses by sea, in the nature of marine risks, or against losses by fire, or insurances on lives or granting annuities, or against any other loss or peril, such as by rain, flood, ice, theft, or any other cause, whether on land or water, upon all and every kind of property, although such individuals or associations may be incorporated for that purpose by any other State, shall pay to the State treasurer, yearly and every year, the sum of twenty dollars upon every sum of one hundred dollars, of the amount of all premiums received by such agent or agents, or any other person or persons for him or them, or which shall have been agreed to be paid for any insurance effected, or agreed to be effected or procured by him or them, as such agent or agents, against loss or injury sustained by sea, or against loss or injury sustained by fire, or insurances on lives or granting annuities, or against any other loss or peril, such as by rain, flood, ice, theft or any other cause, whether on land or water, upon all and every kind of property, and the said agent or agents shall yearly and every year, on or before the first Monday of July, furnish to the auditor-general of this commonwealth, a true amount of all such premiums, verified on oath or affirmation before a magistrate, and also a correct list of the amount of all such insurances, whether on marine, fire or other risks before mentioned, verified as aforesaid, and pay the said sum of twenty dollars in every one hundred dollars, and any agent or agents offending against the provisions of this act, shall forfeit and pay the sum of one thousand dollars for each and every such insurance, to be recovered in the manner in which fines and forfeitures of that amount are by law recoverable, one-half of which fine to be paid to the informer and the other half for the benefit of the poor, in the city, borough, district or county where such insurance or insurances shall have been effected, or agreed to be effected, or procured as aforesaid: *Provided always nevertheless*, That notwithstanding such forfeiture and the payment thereof, the said agent or agents shall remain personally answerable for the said payment or premiums to the State treasurer, and shall in default be immediately prosecuted therefor, in the name of the commonwealth: *And provided also*, That the principals of such agent or agents and their property, shall be responsible for the said payment, and shall and may be proceeded against by suit, attachment or otherwise, as the case may require. Approved the twenty-third day of April, A. D. one thousand eight hundred and twenty-nine.

So the agencies were banished. The situation was now exemplified by one company without naming any commissioned agent, *i. e.*, the Atlantic Insurance Company of New York, organized with a capital of \$350,000, making public announcement in Philadelphia at the close of 1829 that it was "prepared to make marine insurance at their office No. 23 in the Exchange," —the "Exchange" being presumably in New York.



## CHAPTER IX.

*One third New for Old—Organization of the American (marine) Insurance Company—Testimonial to Captain Daniel Wise, Jr.—Renewals of Charters—Reduced Premium for no "Grog" on Shipboard—Delaware Breakwater—Bounds of the Port of Philadelphia, Camden, N. J., a Port of Delivery—Incorporation of the Philadelphia Fire and Inland Navigation Company—Proffers of a New York Broker—Enforcing Spoliation Claims and French Indemnification—Extra Dividends by Marine Insurance Companies—Unseaworthiness in Law—The Panic of 1837—Freight due one-half on Arrival Outward and one-half on Return of Vessel, one Policy Risk—The Washington Insurance Company begins—Damage to Goods not Proof of Sea Peril experienced—Presumption of Insurance and Otherwise—The Philadelphia Marine Underwriters jointly exclude Claims for Whole Amount of Incidental Expenses in Adjustment of Partial Losses—Assets at Minimum Values and Losses maximizing—A National Convention of Marine Insurers—Insurance Limitations from Inadequate Rates—Conditional Liability beyond Term of Time Policy, Usage—Prices of Philadelphia Insurance Stocks, 1841—Reduction of Capital of the Insurance Company of the State of Pennsylvania—The General Philadelphia Marine Policy, 1841—Failure of the Bank of the United States of the State of Pennsylvania—Withdrawal of the Attempted Joint Stock Washington Insurance Company—Reduction of the Capital of the Insurance Company of North America—Dark Days—Withdrawal and Liquidation of the Atlantic Insurance Company—A Mutual Insurance Programme—Taxation of Stock Capital—Statute Requirement of Annual Asset Statements—Masters' Protests in Evidence, Policy Loss and Sea Damage—Asset Statements under Act of April 5, 1842—Dissensions in the Philadelphia Fire and Inland Navigation Company—Organization of the First Mutual Marine Insurance Company of the City—Assessments a Debasement of Mutualism—The Delaware County Insurance Company becomes the Delaware Mutual Safety Insurance Company of Philadelphia—Boston Marine and Fire Insurance Risks written and Marine and Fire Losses, 1843—End of the United States and the Philadelphia Marine Insurance Company, and also the Marine Insurance Company—The Union, the Phœnix, and the American partially mutualized—The Mutual Supplement to the Charter of the Union—The Capital of the Phœnix Mutual—Asset Account, January, 1844, of the Insurance Company of North America—The Columbia Insurance Company—The Insurance Company of the State of Pennsylvania compares the Marine Insurance Business and the Fire Insurance Business—Organization of the Philadelphia Board of Marine Underwriters—Publication of Mutual Revenue and Asset Accounts—Transformation of the Delaware Insurance Company into the Philadelphia Mutual (marine, inland and fire) Insurance Company—Extension of Inland Navigation Writing, and Character of Such Risks—Taxation Act of March 29, 1844—The First Statement of an Insurance Company's Net Surplus—Asset Statement of the Insurance Company of the State of Pennsylvania—The Business and Assets of the Philadelphia Mutual—Business of the Union Mutual and the Phœnix Mutual—Deck Rates proportioned to Under-Deck Rates—Business of the Insurance Company of North America—Compulsory Advertising of Unclaimed Stock Dividends—Loss Superinduced by Negligence of Captain and Crew—Interests of Two Owners under One Policy—Breach of Pilotage Regulations—Computing Cost of Repairs and Jettison of Deck Loads—Growth from Intra-State to Inter-State—Re-admission of Agencies of Non-State Companies—Act of March 21, 1849. (1830-1849.)*

IN 1830 the marine adjustment question pertaining to the repairs of damaged vessels, *i. e.* the deduction of one-third new for old, received some radical revision. The point was, whether the proceeds from the sale of old materials were to be subtracted *before* or *after* making the deduction of a third for new. The underwriter's position was set forth by Phillips, 1823, (Treatise on the Law of Insurance, 371,) as follows: "The old materials, such as copper-sheathing, cables, &c., which are replaced by new, belong to the insurers as far as they are liable for the amount of the partial loss. The proceeds of such old materials are therefore to be deducted from the amount for which the insurers are liable; that is, *after* the deduction of one-third new for old. The rule of deducting a third extends to whatever may be considered a part of the repairs." The insured so paid one-third of the labor and other expense requisite to make the repairs, and the insurer had all the old material as salvage. In a Massachusetts case, *Brookes vs. The Oriental Insurance Company of Salem* (Supreme Judicial Court), the court followed the New York decisions, (*Byrnes vs. The National Insurance Company*, 1 Cowan, 265; *Dickey vs. The New York Insurance Company*, 4 Cowan, 222;) the principle of which was that the "new," or the joint-contribution to the new by insurer and insured, was the amount expended for repairs, less the proceeds from the sale of the old material. The difference was as follows; cost of repairs being, for example, \$1,500, and the value of old material \$200:—

Underwriters' Rule.	Court Rule.
3)1500	1500
500	200
<hr/>	<hr/>
1000	3)1300
200	433 33
<hr/>	<hr/>
Underwriter pays, net, 800	Underwriter pays 866 67

The first might be regarded as a loss and salvage account (loss \$1,000); the second was an account of net expenses, with allowance to the insured of one-third of the value of the old material, he paying one-third of the expenses.

To the companies of the city writing marine risks the tenth was now added. The act incorporating the American Insurance Company of Philadelphia was approved March 18, 1831; capital \$200,000, shares \$50 each. It empowered the president and directors "to make all kinds of marine insurance, all kinds of insurance upon the inland transportation of goods, wares and merchandise, by water or by railway, and to loan money on bottomry and respondentia." Messrs. Henry Horn, William G. Alexander, William Craig, Michael E. Israel, and F. Dusat were the committee of the commissioners to receive subscriptions to the stock; only five shares could be subscribed for by each person of "lawful age and a citizen of the United States," on the first day; on the second day there was no limit to the subscription to the remaining shares. Books of subscription were opened April 20. At the time of subscribing, five dollars per share were paid. May 19, William Craig was elected president, and F. Dusat secretary.

We note, as an incident of the time, that just previous to the opening of the subscription books of the American at "Rubicam's," No. 20 South Sixth



street, a service of plate had been exhibited at the Coffee House, the silver urn of which was inscribed as follows: "Presented to Captain Daniel Wise, Jr., of the Ship *Eliza*, by the Presidents and Directors in behalf of the Stockholders of the Pennsylvania, Union, Atlantic, Phoenix, and United States Insurance Offices of Philadelphia, as a tribute of respect for his persevering and courageous conduct in saving his vessel, and finally getting her into port in safety, after having suffered a violent gale in the Bay of Biscay, which deprived the ship of her rudder and a great portion of her stern.—'Don't give up the Ship.'"

In the State legislature of 1833 the charters of the Delaware, Union, Insurance Company of North America, Insurance Company of the State of Pennsylvania, Philadelphia, and Phoenix were extended twenty years.

As the sea risk was largely a question of the conduct of master and mariners, the movement in favor of total abstinence from all intoxicating liquors, now in the vigor of its initial career, did not fail to attract the attention of the marine underwriter. A national temperance gathering in Philadelphia in 1833 first brought up the question of abolishing the drinking of liquors containing the lowest percentages of alcohol, which was yet tolerated in the temperance organizations. The proposition was then, however, voted down. To get rid of the alcohol risk is an object desired in all departments of insurance, but this does not include liquor as a matter of manufacture or commerce, as underwriting deals solely with the financial aspects of the subject and not the moral. Jack's "grog" on shipboard had contributed a share to the marine casualties, and the Philadelphia marine writers took up the proposition in 1834 to allow a return of part of the premium where the voyage had been made without any drinking of ardent spirits on board. No effective consummation was reached, but a Baltimore office voted to allow a reduction of 5 per cent. of premium on all vessels, upon master or mate making affidavit, after termination of risk, that no ardent spirits had been drunk on board the vessel by either officers or crew during the term of insurance.

Frequent disaster occurring through vessels being driven into or out of Delaware bay by storm or ice, had early suggested the construction of a breakwater to afford a coast harbor near the mouth of the bay. Under an act of Congress of May 23, 1828, the first stone was laid of a mole 1,203 yards long, to protect the harbor behind it from the northern and eastern winds; subsequently a second mole was designed for an ice-breaker. The sheltered portion so formed made a haven of the space of more than half a square mile, with three to six fathoms of water, and thousands of vessels in stress of weather annually found refuge in the shelter of the breakwater upon its completion.

By act of Congress, June 30, 1834, it was enacted (Sec. 5):—

That from and after the passage of this act, the port of entry and delivery for the district\* of Philadelphia, shall be bounded by the navy yard on the south, and Gunner's Run on the north; anything in any former law to the contrary notwithstanding.

SEC. 6. That the town of Camden, in the district of Bridgeton, in the State of New Jersey, shall be a port of delivery, and shall be subject to the same regulations and

\* Philadelphia shall, from and after the passage of this act, be the sole port of entry and delivery for the district of Philadelphia. (Act of April 17, 1822.)



restrictions as other ports of delivery in the United States; and there shall be appointed a surveyor of the customs to reside at said port, who shall also perform the duties of an inspector, and who shall be entitled to receive the annual salary of one thousand dollars and no more.

An act of incorporation, approved April 15, 1835, specifically associated fire and inland transportation risks. Here no English prototype was followed, nor was the transit risk of the breadth of the subject covered by the transport policies of continental Europe insuring against loss or damage from packing of goods, sent or to be sent, until delivery to whomsoever consigned. In older charters, shipments were covered as "going or gone by land or water," to the extent or the limits of the marine risk. The Philadelphia Fire and Inland Navigation\* Company, so incorporated in 1835, was authorized, besides the usual insuring of fixed or located fire risks, "to make insurances against losses by fire or by water, on goods, wares, and merchandize, and effects, transported on rivers, on canals, or on railroads, by steamboats or wagons, in canal boats or cars." The capital of the new corporation was conditionally fixed at \$250,000, with privilege given to stockholders to increase to \$500,000 by a vote of two-thirds of their number—shares at \$50 each. It was declared that the office for the transaction of the company's business should be located west of Broad street, as protective of trade *via* the Schuylkill and the canals. An act, approved March 3, 1836, repealed, however, such compulsory office location, and added to the company's franchises the general marine business and other details of the charter of the American Insurance Company, approved March 18, 1831, with supplement thereto, approved April 10, 1835.

So the marine writing was yet holding its way. With the practical exclusion of other-State companies, the business of the port was by law a franchise of the local companies, yet the insurance broker did not concern himself about State limits, and "as agent for individuals" . . . . "to effect insurances," a New York broker, Benjamin Balch, offered, in the summer of 1835, to Philadelphia shippers the advantages of New York marine insurance, with the annexed inducements:—

The present low rates of premium which are now charged in New York, and the acknowledged liberality in the payment of losses, particularly such as occur on an entire passage combined on vessels, and the small parcels on which average is made to contribute in making insurance on cargoes, it is believed will, in future, give a preference to the marine policies of New York, over other Atlantic ports.

Ships by the year (with general liberty) can be insured on the most reasonable terms, each passage subject to separate average, as if insured specifically. The usual charge for effecting insurance is  $\frac{1}{8}$  per cent. on the sum insured, on sums over \$5,000, and on less sums \$10. Losses and averages occurring under policies effected by him [Balch] will be adjusted and collected free of expense.

The vigorous and effective foreign policy of President Andrew Jackson obtained indemnities, for spoliations on American commerce, from France, Spain, Naples, and Portugal. In the pressing of spoliation claims, war with France at one time seemed imminent. At the close of 1834 the Philadelphia marine offices willing at a former period to assume the war risk, declined, with

\* This combined literal and metaphorical use of the word "navigation" did not come into general usage, as did the like employment of the verb to "ship" and the noun "shipment," in water and land transportation. Subsequently the technical use of the term "inland" implied all that is here signified by the phrase "inland navigation."

lingering recollections of former disastrous experience, to write upon the consequences of any outbreak of hostilities with France; and in February, 1835, marine insurance stocks fell from 8 to 12 per cent. in Philadelphia, and from 10 to 20 per cent. in New York; but the war-cloud was dissipated, and the French indemnification came. In the summer and early fall of 1836 the Philadelphia marine companies paid extra or special dividends, the Delaware paying, June 17, a dividend of 5 per cent. from the business of the company for the previous six months—added thereto an extra dividend of  $12\frac{1}{2}$  per cent. from the French indemnification, on a par less than one-half paid up. In the case of the United States, with the par of its capital reduced to \$25, a French indemnification dividend of 25 per cent. was paid, or payable, June 27, and a second like dividend of 40 per cent. was declared September 9. A second indemnification dividend was also declared by the Delaware, September 9, one of 6 per cent. by the Phoenix the same day, and on the reduced par of the Philadelphia 6 per cent. was payable September 20.

In March, 1836, the Supreme Court held (*Prescott vs. Union Insurance Company*), that in the charge to the jury upon the trial the law was correctly laid down to the jury, and that the court was right in not leaving it to the jury to presume seaworthiness or otherwise. There having been no contradictory testimony as to the facts, the judge charged the jury that "if the facts are as stated in the protest, and the vessel began to leak as soon as she began to sail, or soon after, and continued to leak up to the time of the storm, or any fortuitous accident, and would, in consequence thereof, have required repairs although there had been no storm, then the law says she was unseaworthy." (1 Wharton, 398.)

March 3, 1836, the President, Directors and Company of the Bank of the United States ceased to act—the re-charter having been vetoed by President Jackson; and the Bank of the United States of the State of Pennsylvania was chartered February 18 preceding, with a transfer of funds from the old bank to the new. May 10, 1837, this bank suspended specie payments and years of depression began.

While the tumult of the financial panic of 1837 was raging, the United States treasurer gave notice of the payment of the sixth instalment of the French indemnification, which indemnification, giving needed resources to old marine companies, had so far been disbursed in dividends to stockholders instead of being held to secure the stability of the corporations, as well as held as safeguard of the insurances in the threatenings of new contingencies and the difficulties of an underwriting dwarfing rather than growing. There was, however, little recognition of the idea that insurance is a public security *before* it is a private account for the profit of particular individuals, yet this is a condition precedent in the legislative creation of the insurance corporation.

Insurance in the Philadelphia Fire and Inland Navigation Company for \$2,000 upon the freight of a vessel, at and from Philadelphia to Tampico, and from thence to Lagaira or Campeachy, and at and from either to Philadelphia or New York, became a contest. By the terms of the charter-party, the

charterer bound himself to pay as the freight or hire of the vessel, during the term of the contract, the sum of \$2,000, "to become due, owing and payable, in manner and form following, viz., on the arrival of said vessel and delivery of the cargo, there shall be due, owing, and payable the full and just sum of \$1,000, payable in Mexican dollars; and on the return of the said vessel to the port of Philadelphia, there shall be due, owing, and payable the further sum of \$1,000, the said two sums making the \$2,000 before named." Held, that this as to the insurance was to be considered an entire contract; and the vessel having been lost on her outward voyage, that the assured were entitled to recover the whole amount insured, the policy being for one entire sum out and home. (3 Wharton, 473.)

Besides the agency of the Delaware County Insurance Company, there were eleven city companies issuing marine policies in 1838. No publicity was given as to their condition, but whatever might be the surmises, the integrity of the managements was not questioned. Many years had passed with obligations faithfully performed, and the commercial solvency of the companies was not doubted by vessel owners or cargo shippers; and yet another marine and inland office was projected. The bill incorporating the Washington Insurance Company of Philadelphia was approved April 10, 1838,—capital 8,000 shares, \$25 each. (This act included among its "other purposes" the conferring of marine, inland, and bottomry loan powers upon the Spring Garden Insurance Company.) An office was opened for the Washington, in June, at the northeast corner of Walnut and Dock streets; Charles S. Riché, president, L. Kimball, secretary. There was a call upon the subscribed capital for \$5 per share, payable June 11, and another of \$5 per share, payable October 5, and announcement was made in June that the Washington was "prepared to make and execute all kinds of marine insurance, also all kinds of insurance upon the inland transportation of goods, wares and merchandize by steamboats, on any or all of the navigable waters of the United States, as well as by canal or railways, on as moderate terms as those of any other institution." The Washington was untimely in its coming.

It was held in *Fleming vs. Marine Insurance Company*, this year, that the insured must prove damage done or occasioned in the course of the voyage by some extraordinary peril, against loss by which the policy was protective. It was not sufficient that the goods appeared damaged when landed; and further (policy for account of whom it may concern), if the insurance be for benefit of owner of the goods, yet effected by another without owner's authorization, the jury may presume adoption and ratification of such insurance by such owner. (4 Wharton, 59.)\*

February 28, 1839, the charter of the Washington was made perpetual, privilege to make insurance against loss by fire added, and the authorized

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\* By *De Bolle vs. Insurance Company of the State of Pennsylvania*, whoever claims the benefit of insurance that has been made by another for account of whom it may concern, must show that the person who effected it intended to insure claimant's interest. Plaintiff proved on the trial his interest in the property insured, and that he had adopted the policy, but the absence of proof that the policy was intended for his benefit defeated his recovery. (4 Wharton, 68.)



capital increased to \$400,000—stockholders individually liable for debts of the corporation to the extent of their unpaid subscriptions.

May 10, a meeting of the presidents of the marine companies was held; David Lewis, chairman, Joshua Emlin, secretary. At this meeting the following preamble and resolution were adopted:—

Whereas, in the adjustment of a partial loss on vessels, a practice has been prevalent to some extent in this city of charging to the underwriters the *whole* amount of incidental expenses, such as the charges for the use of a marine railway, stage-hire, hulk-hire, &c., &c. And whereas, the said practice is at variance with the established usage in other parts of the United States, and in the opinion of eminent counsel, is contrary to the principles of equity.

Therefore, Resolved, that the Underwriters of this city will not hereafter admit a claim in the adjustment of which the above named practice is recognized.

In 1839 the marine writing of the country was showing the combined result of price-depreciated assets and maximizing losses. While insurance assets are not appraised at a minimum below probable fluctuations, yet so long as current premium receipts sustain loss payments, panics have the least effect upon insurance organizations, though the impaired financial condition of the insured tells in the end upon the insurer. Depreciated marine assets, outside of the premium fund, were called upon to pay excessive marine losses in 1839, and in 1840 the companies began to totter. In the latter year a national convention of marine insurers met in Boston to devise expedients for the exigency which was upon them. They were driven together as mere traders who, having disaster as their stock in trade, had over-traded, yet they were hardly aware that they were but in the position of the merchant who has bought more than he can sell. Next year the New York board of underwriters showed that the struggle between marine insurance and the general commercial depression, with the influence of the Atlantic Insurance Company of New York, had but enhanced the conflict among the competing dealers in insurance, by repealing its tariff of premiums as being of no binding effect at the time against a prevailing scramble in prices.\*

With respect to liability under time policy beyond expressed terminal date, there might be added such liability when a ship was completing her described voyage. A vessel had, however, been insured "for and during a term of twelve calendar months ending on the 10th of November, 1838, with liberty of the globe; and if at sea at the expiration of the twelve months, the risk to be continued at the same rate of premium until her arrival at her port of

\* As rates in receding become inadequate to risks as accepted, the normal tendency of the underwriter is to limit and circumscribe the hazard. The following regulations were an outcome of the marine premium conditions in 1839:—

*Notice to Ship Owners and others.*—The underwriters of this city, considering the recent insecure mode of fastening chain bolts, adopted by some of the ship carpenters of this city and elsewhere, hereby give notice, that the New York Inspectors have been directed to rate no vessel better than third rate, if the chain bolts are not secured with a riveted forelock, inside the ceiling; and further, that on all such vessels an additional premium is to be charged after the first day of November next.

The Underwriters have also observed an objectionable mode of signing Bills of Lading by clerks and persons not legally authorized to do so. The Marine Insurance Companies of this city will not hereafter consider Bills of Lading valid without the signature of the master of the vessel, or some other person legally authorized to sign for him.

New York 15th October, 1839.

WM. NEILSON, President,  
Board of Underwriters.

WALTER R. JONES, Sec'y.

destination in the United States." "Beginning the adventure upon the said vessel, &c., for twelve months from the 10th day of November, 1837, afore-said, and so shall continue and endure until the said vessel shall be safely arrived at November 10, 1838, at noon, with liberty of the globe as afore-said, and until she shall be moored twenty-four hours in safety," etc. The vessel sailed from Philadelphia, November, 1837, for South America, for the purpose of freighting, and took on board a cargo entirely on freight, and sailed October 9, 1838, for the Island of Jersey, in the British Channel, for orders. November 10, 1838, she was at sea on the voyage to Jersey, and while at sea December, 1838, was damaged in a gale, repaired at Falmouth, sailed thence for Altona; took a cargo there, and then sailed for New Orleans, June 28, 1839. Held (*Eyre et al. vs. Marine Insurance Company*), that the underwriters were not liable after the expiration of the year, unless the vessel should be on her voyage to her port of destination in the United States. (6 Wharton, 247.)\*

At the close of January, 1841, the insurance stock list of Philadelphia was as follows, and we add to the prices respectively offered and asked the instances of dividends passed or rate of dividend declared on previous dividend day. Shares of the Columbia (fire) and the Washington were not quotable.

	Paid in.	Offered.	Asked.	Div., p. c.
Insurance Company of North America, . . . . .	10	9½	10¼	Jan., 0
State of Pennsylvania, . . . . .	400	310	350	Feb., 0
Philadelphia, . . . . .	50	52	60	June, 0
Union, . . . . .	60	55	60	July, 5
Delaware, . . . . .	40	32	35	July, 3
Phoenix, . . . . .	80	70	80	July, 3
United States, . . . . .	25	33	40	Dec., 5
Marine, . . . . .	60	40	45	Jan., 0
Atlantic, . . . . .	60	43	45	Jan., 0
American, . . . . .	30	—	17	Jan., 0
Philadelphia Fire and Inland Navigation, . . . . .	20	—	15	July, 3½
American Fire, . . . . .	100	85	100	Oct., 3
Pennsylvania Fire, . . . . .	100	132	150	Sep., 6
Franklin, . . . . .	100	105	108	Oct., 4½
Insurance Co. of County of Philadelphia, . . . . .	50	36	40	July, 3
Southwark, . . . . .	50	25	28	Jan., 0
Spring Garden, . . . . .	30	10	16	Jan., 0
Penn. Co. Ins. on Lives and Gr. Ann., . . . . .	100	100	105	Jan., 3
Girard Life and Trust, . . . . .	25	24½	25	July, 3

By an act of March 19, 1841, the Insurance Company of the State of Pennsylvania consummated a purpose, first considered in 1830, to retire part of its capital stock. The 250 unissued shares of the \$500,000 capital stock were extinguished, and the par of the stock was reduced one-half, or to \$200—number of shares now 1,000, This left an excess at the appraised value of the

\* The case, *Eyre vs. Marine Insurance Company*, was retried, and again went to Supreme Court on exceptions. Held, by the court, under the policy, that evidence was admissible to prove that such voyage as described in policy was known among merchants and underwriters as a trading voyage, and that it is the usage of trade that a vessel so insured might sail to any part of the globe where she can get a freight at any time during the continuance of the policy period; and that by such trade usage the vessel in this case continued to be covered by the policy during the voyage after the expiration of the twelve months; and that such usage was well known to, and acted on, by the underwriters of the port of Philadelphia. But evidence was not admissible to show that on the voyage next preceding the one for which said policy was effected, a different contract was made by the defendant with the plaintiff, stating reasons for the present one, but not offering to prove anything which occurred at the making of the present policy, or was alleged, by the defendant; nor that the order for the insurance was drawn by the secretary of the defendant, and that the plaintiff objected to the insertion of the words "at her port of destination" after the word "arrival," and was told by the secretary that it was immaterial, and that the meaning was the same. (5 Watts & Sergeant, 116.)



assets, which was for distribution among the holders of the \$200,000 capital—subject to the condition that the whole amount of un-reduced capital at notification of reduction should be held liable for all contracts of insurance then existing.

In May of this year the marine companies of the city agreed upon a uniform general policy for vessel, cargo, and freight, stipulating for certain immunities on the part of the underwriter, fixing more specifically the terms of loss settlement, and incorporating the growing memoranda in the body of the policy. The retained portion of return premium was named as 10 per cent. of amount of such premium, and not a fraction of one per cent. of amount insured.

PHILADELPHIA MARINE POLICY, 1841.

The ——— Insurance Company of Philadelphia.

This Policy of Insurance Witnesseth, that the ——— Insurance Company of Philadelphia, by these presents, do cause ——— to be insured in the sum of ——— dollars, lost or not lost, at and from ——— upon the ——— called the ——— whereof is master for this present voyage ——— or whosoever else shall be master of said vessel, or master thereof shall be named or called:

Beginning the adventure upon the said vessel as aforesaid, and upon the freight or property from and immediately following the loading of said property on board said vessel, and to continue during the voyage aforesaid on the vessel, until she shall be arrived and moored at anchor twenty-four hours in safety, and on the freight and property, until the property shall be safely landed.

And it shall be lawful for the said vessel, in her voyage to proceed and sail to, touch and stay at, any ports or places, if thereunto obliged by stress of weather, or other unavoidable accidents, without prejudice to this Insurance. And in case of any loss or misfortune resulting from any peril insured against, the party insured engages for himself or themselves, his or their factors, servants and assigns, to sue, labor, travel for and use all reasonable and proper means for the recovery of the property insured, or any part thereof; to the charges whereof, the said Company engages to contribute in proportion as the sum insured bears to the whole sum at risk; and the acts of the Assured or Assurers, or of their joint or respective agents, in preserving, securing, or saving the property insured in case of danger or disaster, shall not be considered or held to be a waiver or acceptance of abandonment. The Company having been paid the consideration for this Insurance by the assured, or his or their assigns, at the rate of ———

Touching the adventures and perils which the said Insurance Company are contented to bear and take upon them in this voyage, they are of the Seas, Men-of-War, Fires, Enemies, Pirates, Rovers, Assailing Thieves, Jettisons, Letters of Mart, and Counter Mart, Surprisals at Sea, Arrests, Restraints and Detainments of all Kings, Princes or People, of what Nation, condition or quality soever, Barratry of the Master and Mariners, (embezzlement and illicit trade excepted) and all other perils, losses or misfortunes, that have or shall come to the hurt, detriment or damage of the said vessel, freight or property, or any part thereof. Provided, and it is expressly agreed, that the Insurers shall not be liable for damage or injury to goods by dampness, or by being spotted, discoloured or mouldy, unless the same be caused by actual contact of sea-water with the articles so damaged.

It is also agreed, that Bar, Bundle, Rod, Hoop and Sheet Iron, Wire of all kinds, Tin Plates, Steel, Madder, Sumac, Wickerware, and Willow manufactured or otherwise, Cheese, Salt, Grain of all kinds, Fruits whether preserved or otherwise, dry Fish, Vegetables and Roots, Rags, hempen Yarn, Bags, cotton Bagging, and other articles used for cotton bagging, pleasure Carriages, household Furniture, musical Instruments, looking Glasses, Skins and Hides, and all articles perishable in their own nature, are warranted by the Assured free from average, unless it happen by stranding or collision, and amount to twenty per cent. on the whole aggregate value of such articles; Hemp, Leaf Tobacco, Tobacco Stems, Bread, Indian Meal, Matting and Cassia (except in boxes) free from average under fifteen per cent. on the whole aggregate value of such articles; Coffee in bags or bulk, Pepper in bags or bulk, Rice, Sugar, Flax and Flax-seed, free from average under seven per cent. on the whole aggregate value of such articles.

And in case of loss, such loss to be paid within thirty days after proof of loss, proof of interest, and adjustment exhibited to the Assurers; the amount of the premium, or the note given for the premium, if unpaid, and all sums due to the Company from the Assured, when such loss becomes due, being first deducted, and all sums coming due being first



paid or secured to the satisfaction of the Assurers. But no loss or average shall in any case be paid under five per cent. unless general.

Provided Always, and it is further agreed, that if the said Assured shall have made any other assurance upon the premises aforesaid prior in date to this Policy, then the said — Insurance Company of Philadelphia shall be answerable only for so much of the amount as such prior insurance may be deficient towards fully covering the premises hereby insured, without any deduction for the insolvency of all or any of the Underwriters, and the said — Insurance Company of Philadelphia shall return the premium upon so much of the sum by them insured as they shall be by such prior insurance exonerated from. And in case of any insurance upon the said premises subsequent in date to this Policy, the said — Insurance Company of Philadelphia shall nevertheless be answerable for the full extent of the sum by them subscribed hereto, without right to claim contribution from such subsequent Assurers, and shall accordingly be entitled to retain the premium by them received, in the same manner as if no such subsequent Assurance had been made.

It is also agreed, that the vessel, freight or property, be warranted by the Assured, free from any charge, damage, or loss which may arise in consequence of seizure or detention, for or on account of any illicit or prohibited trade, or any trade in articles contraband of war.

It is further agreed, that in case a total loss shall be claimed for on account of any damage or charge to the said vessel, the only basis for ascertaining her value shall be her valuation in this Policy, and if not valued herein, then her actual value at the port to which she belonged at the time of the inception of this risk. And it is also agreed, that if the above named vessel, upon a regular survey, shall be declared unseaworthy, by reason of her being unsound or rotten, or incapable of prosecuting her voyage, on account of her being unsound or rotten, then the Assurers shall not be responsible on this Policy. And if the voyage aforesaid shall have been begun, and shall have terminated before the date of this Policy, then there shall be no return of premium on account of such termination of the voyage.

And it is further agreed that one-third shall be deducted from the cost of all repairs of injuries and losses by the perils insured against, (except on anchors and copper) as a commutation for the average difference between new and old, the remains of all articles replaced, being considered as salvage, and accordingly deducted from the nett loss. And instead of deducting one-third from the cost of re-coppering, there shall be deducted two and a half per cent. of the nett cost of re-coppering, after deducting the value of the old copper and nails, for each and every month the copper shall have been on the vessel when the accident occurred, and if the copper shall have been on forty months or more, the cost of re-coppering shall be wholly excluded.

It is also agreed, that when the goods insured arrive at this port, no claim for loss or damage shall be allowed, unless the assured, or consignee, give notice to this Company of the same, within ten days after the landing, and also of any public sale intended to be made in consequence of such loss or damage, at least two days previous to such sale, and that the Company are not liable for loss or damage by wet or exposure on goods insured as on deck.

It is further agreed, that in case of capture or detention, the Assured shall not have the right to abandon therefor, unless proof is exhibited of condemnation, or of the continuance of the detention by capture or arrest for at least ninety days. That the Assured shall not abandon in consequence of the port of destination being blockaded, but the vessel shall in such case have the liberty to proceed to another port not blockaded, which shall be substituted for the Blockaded Port. And in case of capture or detention, the Assured renounce all claims against the Assurers for demurrage, seamen's wages and provisions.

It is also agreed, that in all cases of return premium for short property or over-insurance, ten per cent. of the return premium shall be retained by the insurers.

It is also agreed, that no assignment of this Policy shall be valid, unless the premium has been paid or the note given therefor is secured by a previous endorsement of the person or persons for whose benefit said assignment is intended, and unless the consent of the Insurers be first obtained.

In Witness Whereof, The — Insurance Company of Philadelphia, have caused their common Seal to be affixed to these Presents, in Philadelphia, the — day of — one thousand eight hundred and forty —.

#### NOTES.

1. In claims for return premiums a deposition as to the amount of property will be required in all cases where the claims exceed twenty dollars.
2. In the adjustment of losses the assured will be required to furnish a deposition of the amount of insurances effected on the property, on which the loss is claimed.

In the spring of 1841, while this form of policy was under consideration, the Philadelphia marine offices lost nearly \$50,000 on the brig *Susan*, which foundered on her passage to Gibraltar, and \$40,000 on the brig *Corinthian*, lost on the Bahama banks on her way to New Orleans.

To the stockholders the Washington Insurance Company indicated more of responsibility than profit. On the general subject of liability of insurance stockholders, the attitude of the State legislature was menacing. The legislature of the State had driven out all non-State companies, and it could, in view of the position of the American capitalist, so overburden the insurance stockholder as effectually to annihilate him. While there was some town talk about "lame" companies, there was no distrust on the part of the great body of the insured as to the ability of the corporations, as such, to meet their responsibilities, notwithstanding the financial convulsion which was shattering the bases of values.\* Still a bill introduced into the legislature to make stockholders personally liable for all corporate debts, failed February 21, 1842, only by a tie vote.

The attempt to found the joint-stock Washington being doomed to failure, with \$15 per share paid in there were no takers at \$4 per share, and holders becoming apprehensive, steps towards liquidation began with the following notice:—

NOTICE.—Whereas, by the act incorporating the Washington Insurance Company, it is declared, that a number of persons holding 500 shares can at any time, with notice of ten days, call a general meeting of Stockholders, for the purpose of consulting upon the affairs of the Company—In compliance with this provision, the subscribers call a meeting, to be held at the office of said Company, No. 48 Walnut Street, on Wednesday, the 27th day of April, 1842, at 11 o'clock, A. M., and particularly request a general attendance by all parties interested therein.

W. WALLACE COOK,  
(Attorney).

D. A. MCCREDY,  
(acting Executor of D. McCredy),

FRANCIS KING,  
SHOBER, BUNTING & CO.,

THOS. DIEHL,  
ROBT. DUNNING,

(Administrator of Estate of David Dorrance),  
JOHN F. OHL.

On the same day, April 27, 1842, the stockholders of the Insurance Company of North America were convened to take action on the supplementary act of April 6, 1842, proposing a reduction of capital stock to \$300,000 at \$5 per share, and a majority of the stockholders in number and value agreed thereto. At this date, Arthur G. Coffin was secretary of the company, having succeeded Robert S. Stephens in 1832, but he was yet to take the lead in the retrieval of the company's position.

But another event was at hand, yet more significant of the character of this troubled period. The last decade of a century of Philadelphia non-personal underwriting was approaching, but as yet no insurance corporation of the city had discontinued. The Atlantic, incorporated in 1825, had held its ground

\* The Bank of the United States of Pennsylvania, after thirteen months of compulsory specie payments, had suspended again October 9, 1839, and after being driven to resume specie payments collapsed in February, 1841, having sunk its entire capital.



with credit, its capital was yet intact, but in the judgment of its directory the time of the end had come. Condé Raguet, president of the company, noted as a political economist and publicist, died March 22, 1842. He was a merchant of the type of Magens and Weskett, Benecke and Antonio Rosetti, but to the loss of the interest with which he held official relation, his mind had not been directed to the study of the principles of underwriting. An official proposition to close was, of itself, the closing of the Atlantic; the rest was formal proceeding, and of such proceeding notification was made as follows:—

OFFICE OF THE ATLANTIC INSURANCE COMPANY OF PHILADELPHIA,  
PHILADELPHIA, October 12, 1842.

A majority of the number of persons holding stock, either in their own right or in a representative capacity, in the Atlantic Insurance Company of Philadelphia, and holding together more than one-half of the whole number of shares of the capital stock having given their assent in writing for the Directors to close the business, to liquidate, settle, and wind up all the concerns of said Company, and convert the assets into money: therefore, Notice Is Hereby Given to all whom it may concern, that the Directors will, in virtue of the above "Assent in writing," proceed with all convenient speed to close the business, to liquidate, settle, and wind up all the concerns of said Company, and convert the assets into money, agreeably to the provisions of the ninth, tenth and eleventh sections of an Act entitled "An Act annexing the County of Schuylkill to the Eastern District of the Supreme Court, and for other purposes," passed the last session of the Legislature, and approved on the 2d of August, 1842.

All persons indebted to the said Atlantic Insurance Company of Philadelphia, will please make payment, and those having claims will present them for settlement without delay at their Office, No. 16 Exchange Building.

By order.

HENRY D. SHERRERD,  
Secretary.

The storm was on its way.

Instead of arranging to wind up, the Philadelphia Insurance Company declared, June 6, 1842, "a dividend of four per cent. or two dollars per share on the business of the last six months."

Before the blast made chaos and reached its crisis—even before the tempest—what changes disturbance would make as it enforced revolution, were not altogether hidden. Three ideas were coming into practice: taxation of stock dividends, publicity, and non-assessment mutualism—the last as a makeshift rather than a principle. October 11, 1839, an act of the legislature had incorporated the Mutual Insurance Association of Philadelphia. It was a collection of theories ahead of practice, and designed to apply to fire, marine, inland navigation, and land transportation risks. No organization was founded upon it, but it represented phases of what might be called the advanced Philadelphia insurance thought of the time. Towards most of the propositions all applicable insurance was largely drifting, but a non-withdrawable deposit premium as a source of profit or maximum loss to the policyholder was not acceptable either as premium or deposit. Some points of the scheme were as follows:—

SEC. 6. Every person who shall become a member of this corporation, by effecting insurance therein, shall the first time he effects insurance, and before he receives his policy, pay the rates that shall be fixed upon and determined by the trustees, and no premium so paid shall ever be withdrawn from said company, during the continuance of its charter.

SEC. 11. On the same day in the first fortnight, after the expiration of the first year from the time when the said company shall issue their first policy, and within the first fortnight of every subsequent year, the officers of the said company shall cause to be made and printed, a general balance statement of the affairs of said company, which shall contain



- I. The amount of premiums received during the previous year, specifying what amount was received on fire risks, and what on marine risks, and what on inland risks.
- II. The amount of the expenses of the said company, during the year.
- III. The amount of losses incurred during the year, specifying what amount of losses have been incurred on fire risks, and what on marine risks, and what on inland risks.
- IV. The balance remaining with the said company.
- V. The nature of the security on which the same was invested, specifying what amount is invested in real security in the city of Philadelphia, what on real security out of the city of Philadelphia; what in stocks, and what amount of cash on hand. A printed copy of this statement shall be delivered to each member on request, and the said statement shall be printed daily, for one week during the first fortnight of each year, as aforesaid, in two daily papers in the city of Philadelphia.

Section 13 provides that the business of the corporation shall be carried on in the city of Philadelphia and not elsewhere.

SEC. 10. The officers of the said company at the expiration of one year from the time the first policy shall have been issued, and bear date, and within one fortnight thereafter, and during the first fortnight of every subsequent year, shall cause a balance to be struck of the affairs of the company, in which they shall charge each member with a proportionate share of the losses of said company, according to the original amount of premium paid by him, but in no case shall such share exceed the amount of such premium; each member shall be credited with the amount of said premium, and also with an equal share of the profits of said company derived from investments in proportion to the said amount.

Herein was first suggested the accounting to policyholders and the public of business and condition after the asset exhibit required of other-State companies by the short-lived law of April 13, 1827. As the stockholders provided the fund which was to *secure* the payment of losses to policyholders, boards of directors made their reports to the stockholders alone. It was the power of the State rather than the conception of the insurer that made the public exhibit, though unless the insurer should be held to be a person engaged merely in a clerical pursuit, collected data as economic elements were indispensable. The figures to be presented were, however, merely a financial account, and not statistics; but what was thus begun might ultimately become such.

A tax law began January 1, 1841, that was to continue five years, which, without any other design than the imposition of a toll, had certain discriminations operative as a protective tariff in behalf of the mutually insured. Nominally a taxation of capital, it was by its terms a taxation of the stockholder, and not of the capital of the corporation. Where upon the capital stock paid in "a dividend or profit of one per cent. per annum is made or declared," such capital was to pay a "tax of one half mill on every dollar of the value thereof, and an additional half mill on every dollar of the value thereof for every additional one per cent. per annum of dividend or profit made or declared on said capital stock." While the source of payment might be construed as permissive, the language of the law was mandatory; *i. e.*, "the amount of said tax shall be retained and deducted . . . from the dividends or profits made or declared." The tax was always 5 per cent. of the dividend. After the exhibit required of the particular corporation by the act of October 11, 1839, the legislature exacted a kind of annual asset statement from all the companies in the following terms:—

SEC. 6. All insurance or trust companies, created by the laws of this commonwealth, shall, on or before the third Tuesday of January, 1843, and annually thereafter, publish in one or more newspapers in the city or county in which they may have been established, a detailed statement of the assets belonging to the said institutions, that is to say: a description of the property; if real estate, what kind and where; if mortgages, whether first,

second, or otherwise; if stock, what kind, and a description of the same; designating, if bank stocks, what bank or banks, what amount, if any, that is loaned upon other securities, together with the amount of cash upon hand, at the time said statement shall be made. (Act of April 5, 1842.)

The act called for a showing, as will be seen, before the third Tuesday in January, 1843; the time gave meaning and importance to even such a fragmentary statement.

In awarding, in the Supreme Court, a new trial (*Fleming vs. Marine Insurance Company*) upon the points (1) whether a protest given in evidence was made in time, and (2) whether sea water damage of goods was evidence of a peril of the sea having been encountered, in the policy sense it was decided (*a*) that the master's protest is not evidence unless made within twenty-four hours after vessel reaches port of destination, or at least before the goods have been landed and condition of cargo ascertained; (*b*) the mere injury of goods by sea water is not evidence of a loss from a peril of the sea. Gibson, C. J., discoursed in part as follows:—

That a mariner's protest is competent evidence of the facts set forth in it on the trial of an insurance cause, is an anomaly peculiar to the law of our own State, for it is elsewhere only one of the preliminary proofs of loss which the assured is bound, by custom, or the terms of the contract, to furnish the insurer before compensation can be demanded. And it is one which has its root in an imperfect note of an erroneous decision of this court, at a time when its bench was not occupied by judges bred to the law. I believe that neither of the judges who ruled the point in *Nixon vs. Long* (1 Dall., 6) had been admitted to the bar; yet their decision, wrong as it palpably is, has been followed until it has become too deeply seated in precedent, to be abruptly eradicated. This is remarkable, because the error was not merely speculative, but mischievous in practice. A protest is the act of the master and some of his people, all of whom are answerable to the owners for negligence, where it has existed, and it is consequently their interest to saddle the insurers with the consequences of it. In any circumstances, therefore, it is a dangerous sort of evidence, and the principle of *Nixon vs. Long*, if not overruled, must be restrained to protests regularly made.

From the language of the books it would seem that an opinion has sometimes been entertained that there is a distinction between those perils which are extraordinary, and those which are only ordinary. A loss by an immediate act of God, such as a tempestuous state of weather, or by unforeseen causes, such as shoals or collision, which human sagacity or force could not prevent, certainly belong to the former; but such as happen when the elements are propitious, and in a clear sea, have been thought to be excluded from the range of the policy. But this distinction, if it ever existed, has been nearly, if not altogether, obliterated by the later cases, in which it has been held that any damage from the immediate impulse of the winds or the waves, in whatever decree of excitement, is a proper subject of indemnity; for instance, damage from collision, even by the negligence of those who had the injured vessel in charge. Still, may not a cargo become wet with sea-water by the agency of causes with which the winds and waves have no connection?

The contact may be produced by bad stowage, defective caulking, imperfect closing of the hatches or want of pumping, to say nothing of the rat holes, which in *Garrigues vs. Cox* (1 Binney, 592) and in other cases, have been classed with perils of the sea; and damage from any of these but the last, must, by our law, be compensated by the master or owners. It is expressly said by Marshall, in his *Treatise on Insurance* (b. 1, ch. 6, sec. 4), that the masters and owners are liable for damage from exposure of goods to wet; that is, as I understand it, exposure by negligence, but not by an opening of the ship's seams from straining in a storm, or on a shoal. But it certainly assumes that damage may be done by sea-water without constituting a loss by a peril of the sea, within the meaning of the policy. It was necessary distinctly to set forth in his declaration, the accident which was the cause of the loss, and it was consequently necessary to trace it, by proof, distinctly to the peril alleged. So far is this carried, that a ship is always presumed to have been defective when she sailed, unless her disability be proved to have been occasioned by the perils of the voyage (Marsh., b. 1, ch. 11, sec. 1). A doubt seems to have been entertained as to the fitness of the principle in its application to the circumstances of the case which gave rise to it; but it seems not to have been doubted, that when a ship, which has not been disabled in her voyage by an accident or stress of weather, is found unable to reach



her place of destination, there is a presumption that she was unseaworthy when she sailed, which it is incumbent on the insured to disprove; and the presumption ought equally to hold in a case of damage from a leak, not shown to have been caused by an accident or force insured against. What proof, then, have we, that these goods were not damaged by the contact of sea-water, occasioned by bad stowage, want of pumping, or defectiveness of the vessel? We have not a particle of evidence that violence was done to the hull, or that the brig had lost a tack or a spar; and without it, the presumption is that the loss is referrible to some of the causes just mentioned. In that state of the case, there was nothing for the jury to do but find a verdict for the defendant. (3 Watts & Sergeant, 144.)

Had business corporations and persons universally been required to make each a balance-sheet of resources at market value on one side and liabilities on the other, "on or before the third Tuesday of January, 1843," there would have been exhibited a condition of general bankruptcy. Pennsylvania five per cents declined to 40 from 109½ in 1835, was not an exception, and is an illustration of the general monetary situation then. Bank stock held by the State, sold at auction in 1843, brought \$389,056 upon a par of \$2,533,676. Poor insurance companies looked down upon poorer banks, and the former had the advantage of not realizing how poor they were.

The Philadelphia Insurance Company and the Phoenix were prompt in complying with the law for asset publication, which was not universally the case. The asset statement made by each of these companies at the annual meeting held by each, December 12, 1842, was duly published. No independent audit was required to revise the asset account, and like securities had different values in the different statements. Real estate mortgage loans were figured according to the amounts loaned, and real estate held in fee was not valued below the purchase price. In the following statements the loan of the Chesapeake and Delaware Canal Company was valued at 25 per cent. by the Philadelphia, and 20 per cent. by the Phoenix; the loan of the Philadelphia, Wilmington and Baltimore Railroad Company was placed at 89 per cent. by the Philadelphia, and at 60 per cent. by the Phoenix. Similarly the Philadelphia valued its own stock at \$82.76, with \$50 as the par value, and \$64,772.90 above capital to meet liabilities as the assets were valued. The Phoenix, with \$80 paid in, valued its stock at \$43.81.

PHILADELPHIA INSURANCE COMPANY.

*Tuesday, January 3, 1843.*

In conformity, etc., the Philadelphia Insurance Company report the following investments of their capital, as made to their stockholders at their annual meeting held on the 12th December, 1842:—

Real estate, south-west corner Second and Walnut streets, . . . . .	\$10,000 00
Bonds, mortgages, and judgments on real estate in the city of Philadelphia, first liens, . . . . .	43,056 82
Loans on Respondentia, . . . . .	19,000 00
" on collateral security, . . . . .	6,000 00
Loan to the United States, . . . . .	10,000 00
" to the city of Philadelphia, . . . . .	20,000 00
United States treasury notes, . . . . .	1,000 00
Loan to the District of Spring Garden, . . . . .	10,000 00
" to almshouse, . . . . .	15,000 00
" to Schuylkill Navigation Company, . . . . .	65,000 00
" to county of Philadelphia, \$2,500, . . . . .	2,305 75
" to Chesapeake and Delaware Canal Company, \$23,600, . . . . .	5,900 00
(Randel loan), . . . . .	5,000 00
" to Lehigh Coal and Navigation Co., \$10,964.63, . . . . .	2,741 15
" " " " " mortg. loan, \$2,713.41, . . . . .	2,493 41



Loan to Philadelphia, Wilmington and Balt. R. R. Co., \$3,000.00,	2,670 00	
200 Shares Girard Bank stock, par \$50, @ \$1,	200 00	
245 " Germantown and Perkiomen turnpike, par \$100, @ \$50,	12,250 00	
237 " Philadelphia Insurance Company stock,	19,616 66	
30 " Perkiomen and Reading turnpike,	\$1,500	
10 " Easton and Wilkesbarre "	500	
5 " Susquehanna and Tioga "	500	
10 " Falmouth "	500	
6 " Susquehanna and Lehigh "	600	
	<hr/>	
	\$3,600	
	—valued at . . . . .	180 00
5 " Philadelphia and Havre de Grace } Steam Towboat Co., each \$50,	} . . . . .	20 00
15 " Steam Towboat Co., each \$100,		
Notes receivable, undue,	8,431 46	
Policies,	1,006 55	
Cash on hand,	8,007 68	
	<hr/>	
	\$269,879 48	

By order of the Board of Directors.

WILLIAM BOLLER, Secretary.

## PHŒNIX INSURANCE COMPANY OF PHILADELPHIA.

In conformity, etc., the Phœnix Insurance Company of Philadelphia publish the following statement of the assets of the company, made to the stockholders at the annual meeting on 12th December, 1842:—

Capital stock, 6,000 shares, at \$80, . . . . .	\$480,000	
Held by the company, 3,000 shares, at \$80, . . . . .	240,000	
		\$240,000 00
Loaned on first mortgages and ground rents, . . . . .		92,700 01
“ on Respondentia, . . . . .		12,000 00
1,000 Shares Insurance Company of North America, @ \$5, . . . . .		5,000 00
75 “ Philadelphia Bank, par \$100, @ 40, . . . . .		3,000 00
7 “ Bank of North America, par \$400, @ \$190, . . . . .		1,330 00
30 “ Bank of Kentucky, par \$100, @ \$50, . . . . .		1,500 00
20 “ Phoenix Insurance Company, . . . . .		876 25
39 “ Frankford and Bristol turnpike, par \$100, @ \$47 ½, . . . . .		1,852 50
52 “ Philadelphia Exchange Co., par \$100, @ \$40, . . . . .		2,080 00
\$3,500 Philadelphia County loan, . . . . .		3,235 57
\$3,000 Mobile City loan, . . . . .		1,500 00
\$4,000 Randel loan to Chesapeake and Delaware Canal Co., . . . . .		4,000 00
\$25,735.80 Loan to Chesapeake and Delaware Canal Co., @ 20%, . . . . .		5,147 16
\$4,940 Loan to Philadelphia, Wilm. and Balt. R. R. Co., @ 60%, . . . . .		2,964 00
House and lot, No. 96 South Second street, . . . . .		7,568 22
“ “ “ 52 Walnut street, . . . . .		16,360 30
“ “ “ 124 Lombard street, . . . . .		4,161 65
Vacant lots on Locust, Beach, Ashton, and Schuylkill Front streets, Lots, wharves, and improvements on the river Schuylkill, and Beach and Locust streets, . . . . .		8,534 01 44,061 01
Properties in the care of agents, being an undivided interest in lands in the counties of Lycoming, Potter and Cambria, ground rents, bonds for lands sold, and estate in Northern Liberties, . . . . .		15,866 00
5 Shares Easton and Wilkesbarre Turnpike Co., cost, . . . \$250 00		
5 “ Susquehanna and York “ “ “ . . . . .		500 00
20 “ Perkiomen and Reading “ “ “ . . . . .		1,000 00
20 “ Centre “ “ “ . . . . .		1,000 00
10 “ Falmouth “ “ “ . . . . .		500 00
13 “ Lycoming and Potter “ “ “ . . . . .		350 00
10 “ Northumberland Bridge “ “ “ . . . . .		250 00
2 “ Lewisburg “ “ “ . . . . .		100 00
15 “ Williamsport and Elmira Railroad, “ “ “ . . . . .		750 00
5 “ Philad'a & Hav. de Grace Towboat Co., “ “ “ . . . . .		250 00
		\$4,950 00
	—valued at . . . . .	725 00

Bills and notes receivable, . . . . .	16,974 74
Unsettled policies and other debts due the company (after deducting all doubtful claims), . . . . .	8,511 92
Cash on hand, . . . . .	4,824 56
	<u>\$264,772 90</u>

By order of the Board.

J. R. WUCHERER, President.

January 5, 1843.

Both the Philadelphia and the Phoenix declared semi-annual dividends in 1843—the former 3 per cent. June 5, and 3 per cent. December 4; the latter 2½ per cent. June 5, and 3½ per cent. December 4.

November 23, 1842, following the notice of dissolution, the directors of the Atlantic, to quiet alarms on the part of holders of the stock, informed such holders that they were prepared “to make loans, at lawful interest, of thirty dollars per share upon the collateral security of their own stock.” The stock market under-rated the value of the shares. A dividend returning 50 per cent. of the capital paid in was ordered January 3, 1843; a second dividend of 20 per cent. following, February 18. After all liabilities were discharged, the stockholders received six dollars per share above the amount paid in.

As external difficulties make internal dissensions, some stockholders of the Philadelphia Fire and Inland Navigation obtained an injunction in the Court of Common Pleas, December 14, 1842, to prevent sale or disposal of the assets by the directors, which injunction was not removed until July 1, 1843; a meeting of the stockholders called for June 21 by opponents of the directory was adjourned *sine die*, after the passage of a resolution approving of the conduct of the directors and officers.

While the affairs of the Washington Insurance Company were yet undisposed of, the Washington Mutual Insurance Company was incorporated March 16, 1843.\* Mutual insurance is of two and opposing kinds; one is represented by the provisional premium, the other by assessment. Stock insurance is at fixed premium. Practically the assesment is but a debasement of mutualism, though it has some logical vindication in the technical plea that the insurance risk is essentially an unknown quantity which cannot be predicted, and therefore cannot be rated. In theory the mutual provisional premium which is charged *primo*, contains a margin above combined hazard cost and expense cost, equivalent, as a security, to the capital furnished by the stockholders. This premium represents security and jeopardy combined, but the current casualty does not measure the totality of the latter, and the incidental yearly surplus which the premium margin may afford must be held first as a reservation before it can be returned to the premium-payer. Largely, but not altogether, the adoption of mutualism which we are now relating was induced more by inability to attain or hold marine insurance capital in the city than by a purpose to repudiate the stockholder, but in New York shippers were estimating the

\* Mutualism was “in the air.” After a series of extraordinary dividends on the stock, the Atlantic Insurance Company of New York, which had the advantage of the commerce of New York in its business resources, became mutual in 1842, and all the stock capital was paid back. The Atlantic Mutual’s net earnings or profits for 1843 were 40 per cent. of the determined premiums. Philadelphia marine companies purposing a local business were declining—from the declining commercial prestige of the city rather than otherwise.

cost of stock capital to be too high for the value of its protection. The Washington Mutual Insurance Company was the first mutual company instituted in Philadelphia after the Contributionship (fire) in 1763 ceased to be a mutual office—*i. e.* a co-partnership of the individual policyholders for individual account. The contributors of such *were* as shareholders of the common fund, but they were such as a unity, and not in the several fractions of the unit, and possible future dividends were passed in advance. It can be truly said that this was but mutualism in the correct sense, as mutualism is not individualism; but in insurance practice the word mutual has a very shifting meaning—sometimes it denotes but an individual account, at other times it is “each for all and all for each.” Popularly its definition is “no stock capital,” without any perception of the fundamental idea of reciprocation—a reciprocation which comes out of the past into the present, and from the present reaches unto the future. It links the generations together in safety.

The Washington Mutual was a proposition for cheap marine underwriting “in the city of Philadelphia,” with accounting to the individual policyholder. It was yearly to publish an exhibit of its affairs, according as such elucidation was then understood. The project was seconded by some of the best elements of the mercantile community, including Stephen Colwell, author, lawyer, merchant, whose treatise on *The Ways and Means of Payment* brings theories of exchange values within the methods of a science, and in October, 1843, the following card appeared:—

## MARINE AND INLAND INSURANCE.

WASHINGTON MUTUAL INSURANCE COMPANY,  
No. 48 Walnut Street.

This Company is now prepared to make Insurance on Marine and Inland Risks, on terms as favorable as those of any other company in this city, and will settle all claims with promptness and liberality.

According to the charter, all persons insuring in this company are entitled to share in its profits, at the close of each year, in proportion to their respective amounts of premium—for which certificates will be issued, bearing interest—and whenever the accumulation of net profits shall exceed the sum specified in the charter [\$120,000], such excess will be applied from year to year thereafter, towards the redemption of each year's certificates, successively.

The Board of Trustees feel confidence in recommending this plan to assurers, which, it is believed, combines both safety and a reasonable anticipation of Profit.

## TRUSTEES.

Chas. S. Riché,  
Jos. Cabot,  
Jno. C. Da Costa,  
John Dallett,  
S. Morris Waln,  
John Mason,  
Robt. Soutter, Jr.,  
Edw. W. Robinson,

Isaac Lloyd, Jr.,  
Henry Bohlen,  
Chas. Rugan,  
Wm. S. Neilson,  
Thos. B. Wattson,  
Stephen Baldwin,  
Hy. Pratt McKean,  
C. P. Reif,

E. Lincoln,  
Geo. Carson,  
D. Caldwell Hewson,  
Geo. A. Wood,  
Henry W. Andrews,  
S. Colwell,  
Nalbro Frazier,  
Lewis S. Morris.

CHAS. S. RICÉ, President.

LEONARD KIMBALL, Secretary.

Prior to this, the Delaware County Insurance Company had executed the preliminaries needful to remove its principal office to Philadelphia, and the charter supplement to such end, approved March 17, 1843, embraced the privilege to transact mutual insurance in connection with an increase in cash



stock capital, and with the yearly surplus to remain as a "safety fund." Assent of the majority of the stockholders to such changes was recorded May 1, 1843, in the office of the recorder of deeds for the city and county of Philadelphia, and so began the Delaware Mutual Safety Insurance Company of Philadelphia; William Eyre, Jr., president; William Martin, secretary. Scrip bearing conditional 6 per cent. interest was to be issued, for company's annual earnings,\* to stockholders and members, redeemable out of any excess of such accumulated earnings above \$250,000. The "mixed" system, combining joint-stock and mutual management, was thus inaugurated, "all persons insuring in the company becoming members." In the city life business the premium was becoming mutual or participating, while the management remained joint-stock. In the Delaware Mutual, a mixed company, the interest premium on the perpetual fire insurance deposit was on stock account.

In the absence of a like Philadelphia record, it may be something suggestive to note that in 1843, in Boston, on \$43,655,657 marine insurance written, losses were \$192,774.47; and on \$42,690,568 fire insurance written, the losses were \$13,952.86.

January 1, 1844, the joint-stock United States Insurance Company made an assignment, leading the way, after the Atlantic, in the withdrawal of old corporations which began their careers in the first decade of the century. Next month a majority of the stockholders gave their assent in writing to the winding up of the Philadelphia, incorporated in 1804, and the Marine, competing with the Philadelphia for thirty-five years, went down with it. The unsuccessful project called the Washington Insurance Company passed away under legislative authorization, in good companionship with those that had so consummated their work, and refuted the stock market's valuation of its stock by declaring a first dividend of \$8.75 per share. By acts of the legislature approved in March, the old Union† and Phoenix were mutualized, as was also the more recent American; and the Delaware of 1804 alone remained of all the old marines, unchanged in its corporate character or capital—but its respite was only brief. The mutual principle introduced in the changed corporations was in connection with a stock capital. For instance, the Union, upon and after the acceptance of the supplement to its charter by a majority of its stockholders, was to set aside \$100,000 of its capital to constitute a new capital for the stockholders at \$30 per share.

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\* Section 2 of Act of Incorporation, March 17, 1843:—

The directors shall, on the first Monday in November, in each and every year, cause a balance to be struck of the affairs of the company; and if there shall be a surplus, after paying losses and expenses of the company for the year preceding the same, they shall first set aside six per cent. on the actual value of the capital stock of said company out of the said surplus; which valuation shall be estimated by said directors for that purpose, and the balance shall be divided, pro rata, among the insured members and the stockholders. Each insured member shall receive such a proportion of the said surplus, as the premiums paid by him on risks determined may bear to the entire collective amount of stock, valued as aforesaid, and premiums earned, and each stockholder shall receive such a proportion of the same as the stock so valued held by him may bear to the entire collective amount of said stock and premiums earned.

† Literally the asset-statement act of April 5, 1842, provided for the naming of the particular securities without amounts or values, excepting amounts "loaned upon other securities, together with the amount of cash upon hand"; accordingly, the Union, in January, 1844, had published the following:—

UNION INSURANCE COMPANY OF PHILADELPHIA.

Statement of the assets of the Union Insurance Company, in conformity with the provisions of the sixth section of the act of Assembly of April 5, 1842, entitled "An Act to reduce the capital stock of the Atlantic Insurance Company of Philadelphia, and for other purposes."

SEC. 8. Each and every person holding a certificate or certificates for premiums earned on risks marked off and determined, amounting to thirty dollars, shall be and become a member of the said company, and shall be entitled to vote in all meetings of the company; and for each sum of thirty dollars so held by him or them, shall be entitled to the privileges of the holder of one share of the capital stock of said company, under and subject to all the restrictions and provisions of the several acts of assembly relating to the said company.

SEC. 9. That the directors of said company shall, within the first month of every year, cause an estimate to be made as accurately as may be, of the profits of said company during the preceding year, in which estimate the losses and expenses of the company for the year shall be deducted from the receipts and earnings of said company during the same year, arising as well from premiums paid, as from the investments of said premiums and of the capital stock, and the balance (if any,) shall be deemed the amount of the net profits for such preceding year; which estimate shall be binding upon all persons entitled to receive certificates as hereinafter mentioned; and the said directors shall thereupon, if the said net receipts are sufficient in the first place, pay to the stockholders six per cent. on the par value of their respective shares of stock, and after payment of the said interest to the stockholders, then in the second place, pay to the holders of certificates for premiums earned on risks marked off and terminated, six per cent. on the amount therein mentioned; and the said directors shall moreover credit upon the books of the said company, each stockholder, and also each person or firm who shall have paid any premiums to the said company on risks marked off and terminated, during the preceding year, with a proportion of the remainder of the said balance, (exclusive of fractional parts of ten dollars, as hereinafter mentioned,) such proportion to be ascertained by dividing the remainder of said net balance after payment of interest as aforesaid, among the stockholders, in proportion to the par value of their shares of stock, and among the persons and firms by whom premiums were paid, in proportion to the sums received from them respectively for risks marked off and terminated during that year, first deducting, however, all return premiums; and the said directors shall thereupon issue to each stockholder, and to each person and firm, having paid premiums as aforesaid, a certificate declaring him or them, and his or their executors, administrators or assigns, to be entitled to a portion of the funds of the said company, equal to the amount so credited to him or them; and also to receive from the said company annually, out of the receipts, profits and income as aforesaid, interest upon the amount of such certificate, not exceeding six per cent. per annum, which certificate shall contain a proviso, that the amount named therein is liable

Capital stock, 5,000 shares, at \$60, . . . . .	\$300,000 00
Held by the company, 1,573 shares, at \$60, . . . . .	94,380 00
	<hr/>
	\$205,620 00

\$10,000	Loan to Guardians of the Poor, . . . . .	at 5%
10,000	" to county of Philadelphia, . . . . .	at 6
10,000	" to United States, . . . . .	at 6
15,000	" to Schuylkill Navigation Co., . . . . .	at 5
11,779	" to Camden and Amboy R. R. Co., . . . . .	at 6
4,000	" to New Castle and F. T. R. R. Co., . . . . .	at 5½
12,000	" to city of Pittsburgh, . . . . .	at 5
7,000	" to State of Tennessee, . . . . .	at 5
10,000	" to State of Kentucky, . . . . .	at 6
2,000	" to city of Cincinnati, . . . . .	at 6
1,250	" to State of Pennsylvania, . . . . .	at 5
3,047	" to Lehigh, . . . . .	at 6
8,000	" to Cincinnati Water-works, . . . . .	at 6
32,940	" on Respondentia.	
23,432	" Do., settled by notes not due.	
75,156	Bills receivable, not due.	
6,580	Cash on hand.	
5,134	Due by individuals for unsettled policies and other debts.	
25,333	Mortgages and ground rents on city property.	
20	Shares Delaware Insurance stock.	
15	" Philadelphia Steam Towboat Co.	
385	" Insurance Company of North America.	
30	" Germantown and Perkiomen turnpike.	
10	" Easton and Wilkesbarre "	
5	" Susquehanna and York "	
10	" Centre "	
5	" Downingtown and Harrisburg "	
10	" Falmouth "	
10	" Perkiomen and Reading "	
10	" Northumberland Bridge Co.	
2	" Lewisburg.	
5	" Philadelphia and Havre de Grace Towboat Co.	

GEO. LEWIS, Secretary.

January 15th.



to a pro rata deduction for any future losses by said company; but no person or firm shall be credited with, or receive a certificate for a share of profits less than ten dollars, nor for any fractional sums between the several multiples of ten dollars, but all such fractional parts of ten dollars shall be passed to the contingent fund of the company: *Provided always*, That no interest shall be paid upon the said certificates of stock, or for premiums earned, except from the net interest and profits received and made by the said company, upon their investments and the net earnings of the company for, and during the current year in which the said interest shall have accrued, after payment of all losses, charges, and expenses incurred during the said current year; and if the said receipts shall not be sufficient to pay and discharge the same in full, then the whole shall be applied first, to the payment of the interest on the stock in full, or pro rata, as the case may be, and the balance, if any, shall be divided pro rata among the holders of certificates for premiums earned as aforesaid; *And provided also*, That if the said capital stock, or the amount received for premiums on risks marked off and terminated, shall be impaired or diminished by losses, expenses, or by or from any other cause whatever, then there shall be made a deduction equal in amount to the said losses, expenses, or other diminution, which shall be assessed pro rata upon all the said certificates of stock, and upon all certificates issued on account of premiums paid for risks marked off and terminated, and immediately upon such assessment being made by the board of directors, the said certificates issued as aforesaid, shall be binding and obligatory on the said company only for the balance due upon them after such deduction made and assessed as aforesaid; and the said assessment and deduction, when made by the board of directors, as aforesaid, shall be binding and conclusive upon the holders of all said certificates of stock, and for premiums earned for risks marked off and terminated, either with or without notice.

SEC. 10. That on some day within the first month in every year, the directors of the said company shall cause to be made and printed, a general balance statement of the affairs of said company, which shall contain—

- I. The amount of premiums received during the previous year, specifying what amount was received on marine risks, what on fire risks, and what on inland transportation and navigation risks.
- II. The amount of the expenses of the said company during the year.
- III. The amount of losses incurred during the year, specifying what amount of losses have been incurred by marine risks, what on fire risks, and what on inland and navigation risks.
- IV. The balance remaining with the said company.
- V. The amount of interest payable on the certificates of stock, and on those issued for premiums earned, and the dividends declared from the premiums earned during the preceding year.
- VI. The nature of the securities in which the property of the company has been invested, stating separately the amount invested in real securities and in stocks, public loans, or other personal securities, and the balance of cash on hand. Each member of the company shall be entitled to a copy of this statement, which shall be published daily for one week, in two daily newspapers of the city of Philadelphia, in the months of January or February in each and every year.

SEC. 11. That whenever the accumulation of profits invested, shall, independent of the capital stock, exceed \$100,000, the excess may be applied first, to the redemption of the certificates of stock issued under the provisions of this act, and second, after the redemption of said stock, or after the full provision shall have been made therefor, then any further excess may be applied to the redemption of the certificates issued for the premiums earned; but the certificates for premiums earned, of a subsequent year, shall not in any case be redeemed until all those of the preceding year have been paid off and taken up, or provided for; notice of such redemption shall be given in two public papers of the city of Philadelphia daily, in the months of January and February.

It was provided that upon the constituting of the capital stock of the Union Mutual Insurance Company out of the funds of the Union Insurance Company, before any dividend or payment to stockholders of excess of funds above the new capital requirement, that "a fund fully sufficient shall be retained to meet all disputed claims, and all outstanding risks insured by the company; which fund, when added to the \$100,000 of retained capital, shall be equal to the aggregate amount of such claims and risks; and any director consenting to any dividend or payment of said capital stock which shall reduce the reserved fund below this amount, shall be personally liable to any party that may sustain



The oldest of the marine-fire offices made public the annexed asset account January 13, 1844:—

## INSURANCE COMPANY OF NORTH AMERICA.

Statement of the assets of said company, published in conformity, etc.

Capital stock, 60,000 shares, @ \$5, . . . . .	\$300,000 00
Held by the company, 13,459 shares, @ \$5, . . . . .	67,295 00
	<hr/>
	\$232,705 00

*Mortgages.*

All of which are first mortgages, and are on real estate in the city  
and county of Philadelphia, . . . . . 177,000 00

*Ground Rents.*

On real estate in the city and county of Philadelphia, . . . . . 14,483 33

*Loans.*

Philadelphia county, 6%, par, . . . . .	10,000 00
United States government, 6%, par, . . . . .	5,500 00
Chesapeake and Delaware Canal Co., 44,600, @ 40%, . . . . .	17,760 00
"            "            "            Randel debt, par, . . . . .	15,000 00
Lehigh Navigation Co., 6%, 12,000 @ 30%, . . . . .	3,600 00
"            "            "            mortgage, 6,080, @ 60%, . . . . .	3,648 00
Schuylkill Navigation Co., 10,000, @ 90%, . . . . .	9,000 00
Philadelphia, Wilmington and Baltimore R. R., 7,500, @ 80%, . .	6,000 00

*Stocks.*

144	Shares	M. and M. Bank of Pittsburgh, @ \$50, . . . . .	7,200 00
8	"	Bank of North America, \$300, . . . . .	2,400 00
4	"	Insurance Co. of State of Pennsylvania, \$200, . . . .	800 00
48	"	Schuylkill Navigation Co, \$30, . . . . .	1,440 00
5	"	Lancaster and Susquehanna turnpike.	
63	"	Germantown and Perkiomen "	
10	"	Easton and Wilkesbarre "	
5	"	Susquehanna and York "	
20	"	Centre "	
10	"	Lehigh and Susquehanna "	

—cost \$11,300, estimated at . . .	3,650 00
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Cash in bank and on hand, . . . . .	24,849 00
Notes and bills receivable, . . . . .	39,343 58
Unsettled policies and debts due the company, . . . . .	7,263 02
Properties in the care of agents, including 3,900 acres of land, Centre county, . . . . .	1,651 36

\$352,588.38

Union Canal Co.'s *first* loan, \$50,000, in suit.

By order.

ARTHUR G. COFFIN, Secretary.

The Columbia Insurance Company, No. 3 Exchange, was now "insuring at the lowest rate of premium on inland transportation, as also all sorts of marine and fire insurances. Losses liberally settled with promptitude. Ten per cent. of the premium to be returned if no loss."

In the sweep of the revolution, after the reduction of the paid-in capital one-half the directors of the Insurance Company of the State of Pennsylvania took counsel together as to the uncertain future; the discontinuance of the

marine business was not decided upon, but the organization of a fire department was held to be a necessity. A committee of the board gave an estimate of the Philadelphia situation, and, after the manner of the old marine writers, did not mistake premium as a result of position for premium as a question of risk. It was said of the marine insurance business, in connection with the preferability of the fire insurance business—and the latter was rather over-estimated—

That the commerce of our port does not afford sufficient employment for the number of companies engaged in this kind of insurance, and that a considerable amount will always be done at offices in other ports, whose more extended operations enable them to insure at lower premiums. The amount of insurance, made elsewhere by our own merchants, it is not easy to ascertain; but sufficient facts have come before the committee to induce the belief that the amount is very considerable.

That the premiums are not too low is evident, from the large profits made elsewhere, by companies doing a large business; and particularly by those insuring under the Mutual system.

While great success has attended the operations of all the fire insurance companies in this city which have enjoyed the confidence of the public—and no others can succeed—large dividends have been made to their stockholders; and the prices of their stocks are high. They stand, indeed, in striking contrast with our marine offices. While several of the latter are winding up altogether, and others have lost half their capitals from unfortunate investments, the fire offices have done a profitable business; have generally escaped these bad investments, and have not only preserved their capitals entire, but have accumulated large surplus funds.

Still there was a premium element in the trouble, at least certain special premium incongruities. The New York board of underwriters, June 24, 1844, again adopted a tariff, and what remained of the Philadelphia marine writers got together, and, July 3, 1844, they organized the Philadelphia Board of Marine Underwriters. The functions of the body were indicated by the following recital:—

*Standing Committees.*—By the Constitution of this Board, five Standing Committees are appointed by the President, annually, each to consist of three members, viz.:—

A Committee on Risks and Premiums, to prepare a tariff of rates of premiums, and to report, from time to time, such changes therein as may be needful, and when adopted by the Board, the Secretary is to report the same to the respective Companies.

A Committee on Policies, to prepare a form of Policy, and of the necessary documents connected therewith, and superintend the printing thereof when adopted by the Board, for the use of the respective Companies represented therein.

A Committee on Statistics, to procure and superintend a suitable and convenient room in or near the Exchange, for the permanent use and accommodation of the Board, which shall at all times be accessible to its members, and to the Directors and Officers of the several Companies therein represented. They must procure and deposit in said room, all such statistics relative to insurance, marine affairs, commercial regulations, maritime law, &c., as may be deemed useful to the Board, and recommended and ordered by it; and also standard works in relation to those subjects, and maps, charts, coast surveys, and other geographical or maritime documents as may be directed by the Board.

A Committee on Accounts, to assess the sum to be contributed by each Company for defraying the general expenses of the Board; to audit and settle the Treasurer's accounts, and to have the general care and supervision of the finances of the Board.

A Committee on Surveys and Reports on the grades of vessels and of damaged goods, to have the general supervision of matters connected therewith, and report from time to time such action as it may be necessary for the Board to adopt in relation thereto.

*Agents.*—Agents to represent and protect the interests of the Companies composing the Board in ports or places abroad, shall from time to time be appointed as exigencies may require; the appointments to be confirmed by the seal and attestation of the several Companies. The agents so appointed to be under the charge of the Standing Committee on Risks and Premiums.

*Surveyors.*—The Board shall appoint five experienced nautical men, who shall organize themselves as a Board of Surveyors and Reporters. They shall promptly examine every

vessel belonging to, or arriving at the port of Philadelphia, and report forthwith to the respective Companies, members of this Association, the condition, equipments, age, state of repair, how, when and where built, and by whom owned and commanded, as well as the fitness of all such vessels for sea service; and generally to do and perform such other service touching the mode and form of surveys and reports, as may be required of them by the Association.

The Surveyors so appointed shall act together as a Board, and consider the surveys made by the respective members thereof; a majority of whom shall decide upon and determine the standing and grade of each vessel so surveyed, which grade (and no other) shall be reported as the standing of said vessel.

The office of the Board of Surveyors shall be kept in the office of the Board of Underwriters, and a member thereof shall be in attendance from 10 o'clock A. M. to 3 o'clock P. M. daily.

The Surveyors shall be allowed a yearly salary of one thousand dollars each; to be paid them quarterly by the Association.

Subscriptions to said reports may be received by said Board of Surveyors from insurance companies and agencies of other cities, such subscribers to pay not less than fifty dollars per annum, for the use of said Board.

Insurance companies and agencies of this city not members of this Association, subscribing for said reports, to pay not less than \$200 per annum; and the proceeds of all such subscriptions shall be paid to the treasurer of the Board of Underwriters.

No report of the survey of any vessel to be made for or given to any person other than members of this Association and subscribers, without the permission of the Board of Underwriters.

All surveys of vessels shall be considered as private reports, and not be open to the examination of any person, excepting the officers and directors of the respective companies.

The rules and regulations adopted by the Surveyors for their government, shall be reported to the Association, and be subject to their revision or regulation.

No risk to be taken on any vessel, the owners or consignees of which refuse to permit surveys to be made by the Board of Surveyors.

The said Board are regularly to report to the respective offices how vessels are loaded.

*Violation of Rules.*—It is the duty of each member of the Board to give information of any deviation from the rules and rates of premium adopted, coming to their knowledge, to the Standing Committee on Risks and Premiums. Such committee to report the same to the Board, or take such action thereon as they may deem expedient.

No "tariff of rates of premiums" was adopted in the earliest years of the board.

In accordance with the public revenue and asset accounts enacted by the mutual charters, the Delaware Mutual, fire as well as marine and inland, disclosed the following for the year ended October 31, 1844:—

	Premium Receipts.	Losses Paid.
Fire risks, . . . . .	\$13,812 12	\$2,395 00
Marine and inland risks, . . . . .	64,539 95	30,526 76
	<u>\$78,352 07</u>	<u>\$32,921 76</u>
(Notes not included.)		
Total income, . . . . .		\$81,360 00
" expenditures, . . . . .		41,189 83
Income excess, . . . . .		<u>\$40,170 17</u>
Premiums on determined risks, . . . . .		\$58,159 49
Interest, etc., . . . . .		3,067 93
Net earned receipts, . . . . .		<u>\$61,227 42</u>
Expenditures, . . . . .		41,189 83
Net profits, . . . . .		<u>\$20,037 59</u>

The company further state that their resources are in—

Bonds, mortgages and ground rents, . . . . .	\$36,126 75
52 Shares Union Bank of Tennessee, . . . . .	5,896 00
50 " Merchants and Manufacturers' Bank, Pittsburgh, . . . .	2,500 00



120 Shares American Insurance Company of Philadelphia, . . . .	1,500 00
Bills receivable, . . . . .	32,668 95
Cash in banks, . . . . .	15,365 06
Two shares Philadelphia Exchange Company, . . . . .	78 00
Scrip of other insurance companies, . . . . .	30 00
Bills for interest due and not collected, . . . . .	1,247 50
Recent marine premiums—cash and notes in agents' hands, . . .	6,508 70
	<u>\$101,920 96</u>

The above are the "bonâ fide" securities of the company, and do not include notes taken on the mutual plan.

[November 4, 1844.] The directors have this day declared a dividend of ten per centum on the capital stock and earned premium of the year ended October 31, ult., for which scrip certificates will be issued to customers and stockholders, to whom they are due, on and after Monday, the 2d day of December next. Also six per cent. in cash to stockholders on the par value of the stock; and six per cent. interest on the scrip of 1843.

WM. MARTIN, President.

WM. D. SHERRERD, Secretary.

Under the changed conditions of the capital stock of companies transacting a marine business, dividends were made to stockholders out of surplus assets according to the acts of reconstruction. The Union Mutual made its first statement for the portion of the year from March 13 to December 31, 1844, showing:—

RECEIPTS.	DISBURSEMENTS.
Marine and inland premiums, . . . . . \$71,547 61	Losses, return premiums, and reinsurance, . . . \$15,470 39
Interest on investments, . . . . . 5,354 35	Expenses, . . . . . 4,059 81
<u>\$76,901 96</u>	<u>\$19,467 20</u>
Unpaid losses, . . . . . \$17,185 00	

Premiums determined in the period were \$54,308.35. The net profits were placed at \$22,050.50; deducting therefrom \$4,810 charged for interest on the \$100,000 capital, left \$17,200.50 as the subject of a 10 per cent. scrip dividend, according to Section 9 of the mutual charter. The assets,\* as investments, were \$157,095.31.

Still one more troubled change in the revulsion and the round of disaster was complete, though the outcome of the struggle before the companies was a problem. This official notification told of the passing from the old to the new:—

PHILADELPHIA, March 3, 1845.

The Delaware Insurance Company of Philadelphia having, by a supplement to their charter, recently passed by the legislature of Pennsylvania, and approved by the Governor on the 24th of February, 1845, had their title changed to that of

The Philadelphia Mutual Insurance Company,

which supplement has since been accepted by the stockholders as therein required: We hereby give notice that the said company commence insurance on Marine, Inland and Fire Risks, on the 4th day of March, 1845. For the better security of the assured they have reserved a capital of \$100,000 in four thousand shares of stock of \$25 each, which said capital is now invested in good securities easily available in case of need.

JOSHUA EMLIN, President.

JOHN DONALDSON, Secretary.

\* Giving to the term, assets, its etymological significance, *assez*, a property as an asset is not measurable by its current worth. A property is an asset for what it is worth, sufficient or *enough*, as against correlative liability.

Probably a strict accountant called upon to make an asset report according to the act of April 5, 1842, would have answered "values not quotable"; (presumably the act called for a valuation of the properties of the companies by its purpose and scope, if not directly by its terms); yet the Atlantic had exhibited the ability to liquidate and realize sufficient upon its assets to return to the stockholders a surplus above the amount paid in upon the stock. Such example was not lost upon stockholders willing no longer to jeopardize their capital upon exclusively marine insurance ventures, at least without calling on the policyholders to share in the jeopardy. Comparison as to character of assets between the average marine and the average fire office was in favor of the fire office, but so far as there was any reality in such theory, it did not indicate any inferiority of the marine insurer to the fire insurer as an investor. Any difference was more than an investment question. As the insurance business declines in remunerative character, values go out of assets held at the highest possible figures, and the marine stockholder saw less loss or more profit in liquidation than in continuance.

As the general material development of the country was contributing to more diversified application of fire insurance, the growing internal commerce expanded the writing of inland transportation risks as a branch of the marine business.\* The Delaware Mutual Safety leading in this department of risks and the near coastwise, announced that it would "insure goods by inland transportation lines, *via* Pittsburgh, Wheeling, and the lakes; or *via* Mobile, New Orleans, &c., intended for the South or West, either under special or open policies; also produce, provisions, &c., descending the western waters to ports of re-shipment, and from thence to eastern cities, in the United States or Europe."

Taxation of capital of local corporations, or rather of their stockholders, was changed from the act of June 11, 1840, and enforcement of the taxes provided for, by an act of April 29, 1844, which ordered an estimate and appraisal of the cash value of the capital stock, and a certificate thereof, duly sworn or affirmed to, to be forwarded to the attorney-general. Instead of one half-mill on each dollar of capital for each one per cent. of dividend, as in the act of 1840, the act of 1844 imposed three mills on each dollar of capital, whether there were no dividend or dividend were below 6 per cent. In event of there being insufficient funds in the control of the secretary or treasurer, such tax was to be charged *pro rata* upon each share, and collected from the individual shareholders; sufficient shares of the stock of non-paying stockholders to be sold at public sale to satisfy the tax demand.

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\* Such insurance was essentially maritime in its character. Cargo on canal boat Ben Franklin being insured against perils of the seas, rivers, fires, jettisons, enemies, pirates, restraints, etc., at and from Cincinnati, *via* canal to Covington, Indiana, it was held (Protection Ins. Co. *vs.* Wilson, 6 Ohio St., 553.) that the words "seas" and "rivers" included the perils of navigation on the canals.

An act of the Federal congress, approved February 26, 1845, gave the same jurisdiction to the District courts of the United States, "in matters of contract and tort arising in, upon, or concerning steamboats and other vessels of twenty tons burden and upwards, enrolled and licensed for the coasting trade, and at the time employed in business of commerce and navigation between ports and places in different States and territories, upon the lakes and navigable waters connecting said lakes, as is now possessed and exercised by the said courts in cases of the like steamboats and other vessels employed in navigation and commerce upon the high seas or tide waters within the admiralty and maritime jurisdiction of the United States."

For the year ended October 31, 1845, the statement of the Delaware Mutual Safety gave this exhibit of revenue and disbursements:—

RECEIPTS.		DISBURSEMENTS.	
Marine and inland premiums, . . . . .	\$71,884 01	Marine and inland losses, . . . . .	\$73,376 98
Fire premiums, . . . . .	30,836 28	Fire losses, . . . . .	22,258 85
Interest, . . . . .	2,494 50		\$95,635 83
	\$105,214 79	Less reinsurance, . . . . .	16,483 66
	84,853 79		\$79,152 17
Income excess, . . . . .	\$20,361 00	Expenses, . . . . .	5,701 62
			\$84,853 79
Premiums on determined risks and interest, . . . . .		\$88,283 55	
Losses (less reinsurance) and expenses, . . . . .		84,853 79	
Net profits, . . . . .		\$3,429 76	
Total assets, . . . . .		\$114,974 52	

A 6 per cent. stock dividend was declared and 6 per cent. on scrip.

July 1, 1845, Secretary Arthur G. Coffin had been elected president of the Insurance Company of North America. To the annual asset statement appearing in the subsequent January there was added a summation of liabilities, viz:—

Capital stock, less "held by company," . . . . .	\$232,705
Total assets, . . . . .	\$393,160 38
"Which, after providing for the capital stock, premiums undetermined, claims and reservations for losses, and dividend of 5 per cent. declared this day, together with the State tax thereon," . . . . .	323,045 15
Leaves surplus fund of . . . . .	\$70,115 23

So, January 22, 1846, an insurance net surplus made its first public appearance.

For January 1, 1846, the asset report of the Insurance Company of the State of Pennsylvania was as follows:—

Cash on deposit in Bank of Pennsylvania, . . . . .	\$1,551 91
Cash in the office, . . . . .	86 78
	\$1,612 69
Bills and notes receivable, running to maturity, . . . . .	73,323 54
Bonds and mortgages on real estate in the city and county, 1st mortgages, well secured, . . . . .	52,000 00
Book debts, . . . . .	584 75
Loan on collateral security, at short notice, . . . . .	13,000 00
" city of Pittsburgh, \$15,000, at 96%, . . . . .	14,400 00
" Lehigh C. & N. Co. of 1844, \$14,835.19, at 45%, . . . . .	9,675 83
Interest on above, \$4,242.84, at 33%, . . . . .	1,400 03
" mortgage loan, \$8,807.13, at 77%, . . . . .	6,781 49
" Respondentia bonds, vessels not arrived, . . . . .	9,500 00
Claim on the government of Ecuador, for Josephine, . . . . .	5,955 20
" " " for interest (not est.).	
Government of Venezuela, for interest (not est.).	
Claim on the United States, for French spoliations previous to 1800 (not est.).	

*Stocks held by the Company.*

25 Shares Bank of Pennsylvania, . . . . . at 256	6,400 00
3 " North America Bank, . . . . . 410	1,230 00
180 " Northern Kentucky Bank, . . . . . 92	16,560 00
200 " Kentucky Bank, . . . . . 72	14,400 00
40 " Union Bank of Tennessee, . . . . . 58	2,320 00



12 Shares	United States Bank (old).		
40 "	Franklin Fire Insurance Co., . . . . .	115	\$4,600 00
15 "	Pennsylvania Fire Insurance Co., . . . . .	145	2,175 00
40 "	Philadelphia and Lancaster turnpike, . . . . .	50	2,000 00
5 "	Lancaster and Susquehanna " . . . . .		500 00
5 "	Susquehanna and York " . . . . .		250 00
10 "	Easton and Wilkesbarre " . . . . .		120 00
20 "	Perkiomen and Reading " (not est.).		
10 "	Falmouth " " . . . . .		
15 "	Philadelphia steam towboats, " . . . . .		
648 "	Union canal, new stock, . . . . .		10,000 00
			<u>\$240,683 33</u>

The Philadelphia Mutual, beginning March 4, 1845, the successor of the Delaware [marine] Insurance Company, had for the remainder of the year the following operations—the company not entering upon, or not continuing, the proposed fire risks:—

RECEIPTS.	DISBURSEMENTS.
Marine and inland premiums, . . . . . \$33,744 28	Losses, reinsurance, and return premiums, . . . \$10,157 39
" Balance remaining with the company, exclusive of \$10,820.27 premiums on outstanding risks, is \$19,161.90."	Expenses, . . . . . 2,344 14
	<u>\$12,501 53</u>

*Assets, January 1, 1846.*

600 Shares	Philadelphia Bank stock, . . . . .	\$63,000 00
100 "	Western " " . . . . .	4,500 00
50 "	Pennsylvania " " . . . . .	12,900 00*
40 "	N. Liberties " " . . . . .	1,600 00
9 "	N. America " " . . . . .	3,708 00
9 "	Philadelphia Exchange, . . . . .	360 00
425 "	Delaware Ins. Co. and Philadelphia Mutual Ins. Co., . . . . .	15,625 00
7,316	Lehigh mortgage loan, . . . . .	5,852 50
	Bills receivable, . . . . .	23,553 52
	Premiums on policies not taken up, . . . . .	1,742 90
		<u>\$133,738 50</u>

A stock dividend was declared January 5, 1846, of 6 per cent. cash and 10 per cent. scrip to stockholders and insured. For the first of January, 1847, the asset total of the Philadelphia Mutual was given at \$148,027.59.

The exclusive marine and inland business, as represented by the Union Mutual and the Phoenix Mutual, resulted as follows in the year 1845:—

	UNION.	PHŒNIX.
Premium, . . . . .	\$86,673 95	\$58,593 32
Interest, etc., . . . . .	5,215 40	5,947 88
	<u>\$91,889 35</u>	<u>\$64,541 20</u>
Losses, reinsurances, and return premiums, . . . . .	\$38,136 48	\$20,779 12†
Expenses, . . . . .	5,463 45	4,439 04
	<u>\$43,599 93</u>	<u>\$25,218 16</u>
Unpaid losses, . . . . .	3,345 00	

\* The valuing of this stock at \$258 per share by the Philadelphia Mutual, and at \$256 by the Insurance Company of the State of Pennsylvania, at least shows the progress of the financial recuperation which had been entered upon. In the bank troubles of January, 1842, in Philadelphia, a run was made upon the Pennsylvania Bank, which held the sum of \$800,000 to pay the February State interest, but the governor interposed and the doors were closed. The stock of the bank fell to \$50 offered on a par of \$400

† Return premiums, \$3,016.80.

	UNION.	PHŒNIX.
Premium on determined risks, . . . . .	\$67,937 77	\$41,437 46
Interest, etc., . . . . .	5,215 40	5,947 88
	<hr/>	<hr/>
Expenditures, including special reservations, .	\$73,153 17	\$47,385 34
	46,944 93	25,218 16
	<hr/>	<hr/>
Net profits, . . . . .	\$26,208 24	\$22,167 18
Less interest on capital stock and scrip of 1845,	6,321 00	7,200 00
	<hr/>	<hr/>
	\$19,887 24	\$14,967 18
Assets, January 1, 1846, . . . . .	\$163,371 00	\$159,660 57

The \$19,887.24 net earnings of the Union Mutual were the basis of a scrip dividend of 12 per cent. to stockholders and entitled premium payers.

Treating the \$14,967.18 as net surplus in the case of the Phoenix, there remained \$24,093.39 as offset to the various liabilities other than the capital stock (\$120,000), and in the asset figures there was real estate located in the city and county of Philadelphia estimated at \$80,000. The scrip dividend upon the stock and the earned premium was 10 per cent.

So far the action of the Philadelphia Board of Marine Underwriters had been chiefly limited to the organization and the work of the Board of Surveyors and Reporters, which determined the grade of vessels arriving at or belonging to the port; but the tariff action of the New York board was effective as influencing a standard of rates. On the subject of the insurability of deck loads in the more stormy half of the year at any rates, there was some question, and the New York board, in the following proportionment of the deck to the under-deck rates, made October 1, 1846, met the general concurrence of the marine writers:—

(Under-deck rates according to the tariff of June 24, 1844.)

On decks of ships, barques and brigs, from October 15 to April 1, for the present year, but hereafter from first September:—

On cotton, three times under-deck rates.

On lumber, timber, staves, molasses and other articles in barrels, casks and crates, and non-enumerated articles, five times under-deck rates.

Boilers and machinery subject to special agreements.

On board sloops and schooners on coasting voyages, one rate in addition to above.

Naval stores, ten rates by all vessels.

Freights on deck loads *not to be insured*.

January 1, 1847, the assets of the Insurance Company of North America were \$447,071.07; net surplus \$100,044.29. The marine writing of this office, which reached its lowest point in the decade ended with 1832, had been for some years on the advance, and was now greatly augmenting.

Unclaimed stock dividends were a subject of State legislation this spring. By act of March 6, 1847, all such dividends above five dollars in amount unclaimed for three previous years in December following, and annually thereafter, were to be advertised as prescribed. In event of failure so to publish, the institution, and the treasurer in his individual capacity, were subject to a penalty of the whole amount of dividend and 12 per cent. per annum interest until the dividend and the penalty should be paid to the party in whose name the dividend was standing, or the representative of such party. With no

demand for such allotment three years after the first publication, the amounts were to be escheated to the commonwealth and paid into the treasury thereof, and were receivable by the owners from the State upon application to the State treasurer and due proof.

In an action on a policy this year, it was held (*American Insurance Company vs. Insley*) that it is no defence that a loss directly caused by a peril of the sea happened through the negligence of the captain and crew, and that captain and crew are competent witnesses for the insured; also that policy being under seal and in name of agent, intended to cover the interests of two owners, but one disclaiming any authorizing of the insurance, such non-authorizing did not defeat the right of the covenantee to recover to the extent of the other owner's half interest. (7 Barr., 223.).

In respect to the pilotage act of March 29, 1803, and the supplement thereto of March 13, 1817, and a loss on outward-bound vessel having occurred on pilot ground in the bay, and no pilot on board, the act requiring vessel of 75 or more tons burden to take a licensed pilot or forfeit a sum equal to half pilotage, it was held (*Flanigen vs. Washington Insurance Company*) that such omission did not avoid the policy. No statutory seaworthiness was created by the enactment, and whether a vessel without a pilot is seaworthy, depends upon the usage of the port, competency of the master, etc. (*Id.* 306.)

In the judicial interpretation of the marine insurance policy the Supreme Court of Pennsylvania had now established that the conditions existing which justify abandonment of the insured subject to the underwriter, the notice of such abandonment to the underwriter, or the failure to give notice of such intention, is equivalent to an election by the insured to claim, in the first case, for a total loss, or, in the second case, for a partial loss.\* This court had, further, extended its protection to the rather outlawed deck-load.

A vessel at sea, on a voyage from Spain to the United States, had been insured by the American Mutual—vessel valued at \$2,500. Part of the cargo was a deck-load consisting of certain quarter-casks of wine stowed in the long boat amidships. Storms occurred by which the mainmast was sprung, and other injuries sustained by the vessel, and the master, without trying the effect of lightening his craft, bore away for St. Thomas. Reaching that port, surveys were made, and the cost of repairs was estimated at \$1,390, while the value of the vessel, if repaired, would be as estimated, \$1,000. The probable cost of repairs and value of the vessel were proved according to these estimates by the surveyors examined under a commission. Pursuant to the advice of the surveyors, the captain sold the vessel for \$460.

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\* No phraseology was established for such act of cession. The following indicates its general character:—

Take notice: I, J. B., of ——— and ——— do hereby abandon, cede and leave to you, all my right, title, interest, claim, property and demand of and in the ——— called the ——— of ——— of the burden of ——— tons, or thereabouts, and all and every part of her cargo, and the goods laden on board of her by me, the said J. B., and do demand of you a total loss in the sum of ——— dollars, lawful money of the United States, by you underwrote on goods and merchandises laden on board the said ——— by me, the said J. B.



Upon receiving information of these occurrences, the insured notified the underwriting company concerning them, but no verbal expression of abandonment was made in due time.

The insured brought suit to recover as for total loss. In the District Court, Philadelphia, the opinion of Sharswood, J., was:—

If the cost of repairs would certainly so far exceed her value when repaired that no reasonable man could doubt as to the propriety of selling under the circumstances, it was a total loss without the necessity of abandonment. The value of the ship was her general value at the time and place where estimated, since the master and those he consulted had no means of judging of her value elsewhere; and the cost of repairs should be estimated at their actual amount, without deducting one-third new for old. If the jury thought, under the instructions, there was no necessity for a sale, then the plaintiff could recover only for a partial loss, viz.: the cost of repairs, allowing one-third new for old.

In Error. (*American Insurance Company vs. Francia.*) Gibson, C. J.: It is argued that the master was bound, before seeking a port of necessity, to sacrifice his deck-load to save the rest. The weight of authority is, however, that the jettison of the deck-load gives the owner of it no title to contribution, and no action against the master for bad stowage, if it were the usage of the trade thus to carry such articles; but I know of no rule which requires the master to sacrifice them in the first instance. Where they pay their proportion of the premium and freight, and the custom of the trade is not to stow them below, it is hard to see why they do not stand on the footing of every other part of the cargo. . . . In this instance the loss would not have been compensated; and for that very reason the master was not bound to sacrifice an unprotected property, in case of those whose property was protected by the right of contribution. . . .

It is assigned for error that the jury were instructed "that one-third new for old was not to be deducted from the estimated amount of repairs, in computing whether the needed repairs would have exceeded half the vessel's value when repaired." It is difficult to see what that had to do with the master's right to sell. In the case of a partial loss the damage is calculated on the expense of repairs where the owner chooses to repair; where he does not, it is calculated on the best data that can be had. But where the ship has been actually repaired, her value being greater than it was before the disaster by the replacement of old timbers and materials with new, the owner must contribute to the expense in proportion to the benefit, and, according to usage, as one to two. But even if the rule were applicable to a technical total loss, it would be unnecessary to apply it here; for, independent of all other considerations, it seems to be settled by authority, that the plaintiff can recover for no more than an average loss for want of seasonable notice of abandonment.

Taking as the basis upon which to estimate depreciation in the vessel the sum named in the policy, with deduction of one-third of the cost of repairs "for new," the vessel would not have been depreciated one-half. Underwriters were complaining that masters of damaged vessels were permitting them to be sold unnecessarily at the prices ruling at port of refuge, through the idea of owners recovering as for total loss. In this case the Supreme Court held that in determining whether there has been a technical total loss of a vessel, her value at the port of necessity is the standard. It was further ruled that the protest of the master (detailing the disaster), if not made within twenty-four hours after reaching a port of safety, is admissible as part of the preliminary proof, if excluded as evidence to the jury. (9 Barr., 390.)

By January 1, 1848, the assets of the Insurance Company of North America had advanced to \$710,755.92; Insurance Company of the State of Pennsylvania, at same date, \$257,524.44. At the close of the fiscal year ended October 31, 1846, the assets of the Delaware Mutual were \$140,225.94; next year, \$198,897.71, and year ended October, 1847, the marine and inland premium receipts were \$167,085.15; marine losses paid, \$46,180.56; inland losses paid, \$59,661.51; fire premium receipts, \$53,147.81; fire losses paid, \$41,438.42.

October 31, 1848, the assets were \$223,053.06; marine and inland premium receipts in the year, \$187,146.04; losses paid in this department, \$102,669.54; fire premiums, \$67,461.02; fire losses, \$86,905.04; payments for reinsurance, \$15,019.50.

The agency charges of the Delaware Mutual advanced from \$6,073.36 in the official year ended October 31, 1846, to \$8,757.85 in 1848. Association of inland business with the fire business—the former essentially an inter-State transaction—was contributing throughout the country to change fire policy writing from an intra-State to an inter-State transaction; the contract being, however, according to the *lex loci*, and the corporation always an intra-State institution. In December, 1847, J. M. Wright, agent at Camden, N. J., for the *Ætna* and the Protection, two Hartford fire and inland navigation offices, advertised in Philadelphia, soliciting orders “for insurance against loss by fire; office near the ferry, from the upper side of Market street.” Movements began for the repeal of the Pennsylvania statute localizing the insurance practice. A bill to admit agencies of non-State companies was unsuccessfully introduced in February, 1847. February 16, 1848, Mr. Hart offered in the Pennsylvania House of Representatives the following resolution, which the House agreed to:—

*Resolved*, That the several fire insurance companies incorporated under existing laws of this commonwealth, and having agencies for the transaction of business in other States of the Union, be requested to prepare and transmit forthwith to the speaker of the house a statement embracing: The amount of tax paid by any such fire insurance company to the State in which such agency is located, and also to the municipal corporation or county granting a license for the transaction of their business during the year 1847; the amount of premiums in notes or cash received at any and every agency; the amount of losses sustained and paid out at any such agency during same period.

This was in connection with a bill to empower non-State insurance companies to open agencies in Pennsylvania, which did not meet with the approval of the governor; but January 24, 1849, an omnibus bill became a law, which contained the following sections:—

SEC. 5. That any body politic or corporate, individual, firm, company or partnership, incorporated, formed or established for insurance, life annuity or trust purposes, can or may have an agency or agencies in this commonwealth, and can or may become insurers in any case whatever, legitimately appertaining to their business, and not contrary to the laws of this commonwealth: *Provided*, That the said agent of such insurers shall comply with the provisions, terms and conditions of the following, to wit:

SEC. 6. I. Every such insurance association (life insurance, and annuity and trust companies excepted) desirous of establishing such an agency, shall pay to the treasurer of the respective counties within which such agency is to be established, for the use of the commonwealth, as follows, to wit: in the city and county of Philadelphia the sum of one hundred dollars, and in the county of Allegheny seventy-five dollars, and in all other counties in this commonwealth the sum of fifteen dollars; and thereupon the said county treasurer shall issue to the said corporation, or to its authorized agent, a license to transact the proper business of said insurers within this commonwealth, for one year; and annually at or before the expiration of the year for which such license may have been granted, said corporation shall in like manner pay the sums as hereinbefore specified for the renewal of such license from year to year, so long as the said agency or agencies may be continued in the county.

SEC. 7. II. Every such insurance association or company not chartered by this commonwealth, shall, before taking any risk, or issuing any policy, or obligation in the nature of a policy of insurance, and before transacting any business whatever at the agency, pass and certify under their common or corporate seal, a resolution authorizing and



requiring their agent to accept, in the name of the association or company, the service of any writ that may be issued against them out of any court or by any alderman or justice of the peace within this commonwealth, and upon the return of such writ, so accepted, such proceedings may be had against such association or company as might or could be had against any corporation established by the laws of this commonwealth, after the service of any such writ against them; and in case any final judgment against any such association or company shall remain unsatisfied for the term of thirty days after the stay of execution has expired, it shall be the duty of the agent thereof to cease the transaction of business under the license granted to them, except so far as may be necessary to wind up and close the affairs of such agency; the said resolution shall be recorded in the office for recording deeds in the county where such agency may be established, at the expense of the association or company, and certified copies thereof, under the seal of the recorder, shall be good evidence as the original would be before any court, alderman or justice of the peace, as aforesaid, and it shall be the duty of the attorney general to institute the necessary legal proceedings to enforce a compliance with this provision; and that whenever any insurance company chartered by this State shall establish a branch office or agency for the transaction of the business of the corporation in any other city, borough or county, than the one where the principal office is situated, the service of any legal process shall be deemed sufficient if made upon the principal clerk or agent of such branch agency, in the manner provided with regard to the service of any legal process upon the president, or other principal officer, or upon the cashier, secretary or chief clerk of such corporation.

SEC. 8. III. The agent of every such association shall keep accurate accounts of all moneys received by him therefor, either directly or indirectly, by way of premiums, or deposit for insurances, or for annuities, and shall make a return thereof under oath or affirmation to the auditor-general annually on the first Monday in December in each year; and every such agent (excepting agents of life insurance and annuity companies) shall retain in his hands out of every dollar that he shall so receive for premiums of insurance, or for interest money or sums deposited for insurance on real estate as aforesaid, the sum of three cents, and at the time of making his return as aforesaid, shall pay the said sum of three cents upon every dollar so received by him to the proper county treasurer, for the use of the said commonwealth, and take his receipt therefor in duplicate, one of which receipts he shall forthwith forward to the auditor-general.

SEC. 9. IV. The agent of such foreign life insurance, trust or annuity company or association, shall, in like manner, pay over as aforesaid, before a license can be obtained, as follows, to wit: in the city and county of Philadelphia the sum of three hundred dollars, and in the county of Allegheny two hundred dollars, and in all other counties of this commonwealth the sum of forty-five dollars, and a like sum thereafter for renewal of such license, and the said agent shall retain in his hands out of every dollar that he shall receive for premiums, gross sums paid for annuities, and on all commissions for executing trusts, the sum of one cent, and at the time of making his returns as directed in the foregoing article, the said agent shall pay the said sum of one cent, so received by him, to the proper county treasurer, for the use of the commonwealth, and shall take his receipt therefor in duplicate, one of which receipts he shall forthwith forward to the auditor-general.

SEC. 10. V. It shall be the duty of every such foreign association or corporation, and every insurance company, life, trust and annuity company incorporated by the laws of this commonwealth, to publish, on or before the second Monday in January following, and in every year thereafter, at least three times a week for the space of two weeks, in a newspaper printed in the city or county in which they do business, or in which such agency may be established, if a daily newspaper be printed in such county, and in such counties where no daily newspaper is published, once a week for three weeks, a statement showing particularly in tabular form, the amount of their capital, the amount and nature of their assets, the annual amount of their premiums and moneys on deposit, the amount of their risks, insurances and annuities, distinguishing the amount of such risks, insurances and annuities, in such city, town and county respectively, and the amount of their debts and liabilities; and it is hereby made the duty of each county treasurer, where such agencies may be established within this commonwealth, to see to the fulfilment of the foregoing regulations by the said corporations.

SEC. 11. VI. It shall be the duty of every such agent, before entering upon the duties of his office, to give a bond in two thousand dollars, with two sureties, residents of the county in which the agency is established, conditioned for a faithful discharge of all the duties enjoined upon him by the provisions of this law, and for the payment of all moneys received by him or payable by him for the use of the commonwealth; which bond shall be taken by him and acknowledged before the recorder of deeds of the same county, and recorded in his office at the expense of said company or association, and certified copies thereof, under the seal of the recorder, shall be as good evidence as the production



of the original would be in any action brought against such agent or his sureties on such bond.\*

To facilitate the collection of debts against all foreign corporations whose operations were now prospectively to be on a large scale, an act was approved March 21, 1849, one section of which was in the following terms:—

SEC. 3. That in all suits or actions hereafter to be brought in any court of record of this commonwealth against any foreign corporation or body corporate not holding its charter under the laws of this commonwealth, every judgment, verdict or award rendered against such corporation, shall be final and conclusive, unless the said defendants, in addition to the usual proceedings in cases of appeal, shall give good and sufficient bail in the nature of bail absolute, for the payment of such sum or sums as shall finally be adjudged to be due to the plaintiff or plaintiffs, together with interest and costs thereon; and in the commencement of any suit or action against any such foreign corporation, process may be served upon any officer, agent, or engineer of such corporation, either personally, or by copy, or by leaving a certified copy thereof at the office, depot, or usual place of business of said corporation; and such service shall be good and valid in law to all intents and purposes.

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\* We do certify that the bill entitled "An Act to authorize Amanda M. Richmond, of McKean county, the trustees of the Church of God in Frederickburg, Lebanon county, and Thomas Heyl, junior, guardian, to sell real estate; empowering William H. Holstein, guardian, to draw and appropriate certain moneys; in relation to insurance companies, and the agencies of insurance companies not chartered by this State, and to liens in Lycoming and Clinton counties,"—was presented to the late governor, Francis R. Shunk, on the tenth day of April, 1848, and was not returned within three days after the meeting of the present legislature; wherefore it has, agreeably to the constitution of this commonwealth, become a law in like manner as if it had been signed.

[No NAME.]

*Clerk of the House of Representatives.*

SAM'L W. PEARSON,

*Clerk of the Senate.*

HARRISBURG, January 24, 1849.

That the 5th, 6th, 7th, 8th, 9th, 10th and 11th sections of An Act to authorize Amanda M. Richmond and others to sell real estate, also respecting insurance, etc., etc., Shall be construed to apply only to agencies of foreign insurance companies or associations, except so much of the seventh section as refers to the service of legal process on agents of insurance companies incorporated by this commonwealth; and every person offending against the provisions of the said sections of the act aforesaid, shall forfeit and pay the sum of five hundred dollars for every such offence, for the use of the commonwealth; and if shall be the duty of the treasurer of the proper county to prosecute to conviction any person so offending. (Act of April 22, 1850, Sec. 22.)

## CHAPTER X.

*Comparative Extent of Marine and Fire Insurances, 1849—Exhibits of the Mixed Mutual Companies—Winding up of the Philadelphia Mutual—Agency of the Astor Mutual, of New York—An Act in Relation to Lost Policies—The Washington Mutual—The Mercantile Mutual Insurance Company—Writings of the Insurance Company of the State of Pennsylvania and the Insurance Company of North America, 1849—Registered Tonnage of Philadelphia, 1850—Richard S. Newbold—A Gubernatorial Proposition—A Relic of the Act of April 23, 1829—Perils of Inland Navigation Risks—Wages of Crew in rescuing the Vessel not Chargeable to the Underwriters—Wages and Provisions as General Average at Port of Necessity—The Globe Insurance, Life Insurance, Annuity and Trust Company—Capitalizing Surplus of Insurance Company of North America—The Columbia Mutual—The Philadelphia Insurance Company of 1851—Particular Average—Tuckett's Monthly Insurance Journal—The Showing of the Mercantile Mutual—The General Mutual Insurance Company of New York—Collision by Negligence on Board Insured Vessel—Disasters on the Northern Lakes—The Varying Phraseology of the Marine Contract—Seaworthiness in Time Policy—A Marine Insurance Revival—Binding in Pennsylvania of Other-State Risks effected by Agents—Goods warehoused with Possible Sea Damage—Reinsurances from Reduction of Lines—The Insurable Interest of the Reinsured—The Western Insurance Company—The Independent Mutual—The Commercial Mutual—The Girard Fire and Marine—Gillett & Coggs hall—Coming of More Fire-Marine Agencies—The Northwestern Insurance Company of Philadelphia—The Anthracite—The Hope Mutual—The Merchants'—The Keystone—More Agencies—The Atlantic Mutual, of Philadelphia—The Merchants and Mechanics' Mutual—The "Frightful" Increase—Companies constituting the Board of Marine Underwriters, 1855—Collapse of Represented Other-State Companies—The Extended Agencies of New Experiments—Business of the Independent Mutual—The Exchange—The Merchants and Mechanics'—The Manufacturers'—The Farmers and Mechanics' Fire, Marine and Life—Tax Receipts from Non-State Companies—The Uncertainty of Policies in the Era of Fraud—New York Investigations—Wanted: a Charter—The Importers and Traders'—A Showing of the Keystone—Position of the Hope Mutual—The Great Western Fire and Marine organizes and exhibits its Advantages—Conditions and Contingencies of Seaworthiness—Specimens of Marine Policies—The Board of Marine Underwriters and Ice Blockades of the Delaware—Grading of Vessels by the Board—Insurance Incorporation Act—An Act relative to Agencies, April 9, 1856, supersedes the Act of 1849—The Keystone becomes the Alliance—The Quaker City—Embezzlement Penalties—Incidental Fire Extinguishment Damage on Vessels as General Average—The Howard—The Continental—The Lombard—The Fame—Retirement of the Washington Mutual—Withdrawal of Agencies—Business of New Companies—Taxes paid by Agencies—The Girard discontinues Marine Risks—Culmination of the Fire-Marine Insurance Speculation—The Neptune—Commerce of the Port, 1857—Minimum Cargo Insurance Rates—Writing of Inland Transportation Risks considered and declined—The Insurance Intelligencer and the Philadelphia Underwriter—The Underwriters' Association of Philadelphia—Market Prices of Scrip and Shares of the Mixed Mutuals—Lake Losses—Legislative Regulations—The Importers and Traders' gives Notice of its Position; Receiver appointed—The Board of Trade and the Insurance Impostures—Classification of Philadelphia Companies of 1857 as to Responsibility, Deficiency and Fraudulence—*

*The Assets and the End of the Alliance—The Farmers and Mechanics' discontinues Marine Risks—The Howard protests—The Financial Panic of 1857—The Commercial Mutual withdraws from the Marine Business—The Lombard sells out its Business and the Sheriff sells out its Furniture—Curtailement of Credits on Marine Policies—The Corn Exchange Insurance Company begins, and the Mercantile Mutual, the Philadelphia, the Independent Mutual and the Commercial Mutual end—Premium Note given to Irresponsible Company Valid against the Maker—Decline and Partial Recovery of Market Value of Investments—Position and Business of Old Offices and Business of New Fire-Marine Offices—The Western withdraws, and the Safeguard (fire and inland) and the Eastern organize—Lake Underwriting and Losses in 1857—A Company which will receive Premiums for All Risks—Ground Rent Assets authorized—Tabulation and Classification of Marine Disasters—Bottomry Loans working Insurance Complications, the Schooner Orb—Ohio Coal and Ice Boats as Insurable—The Merchants and Mechanics' stops at Termination of Outstanding Contracts, the Farmers and Mechanics' stops at Once—New Capital and Scrip Basis of the Delaware Mutual—Liquidation of the Atlantic Mutual and Doings of other New Ventures—The Business in 1858 of the Union Mutual and the Phoenix Mutual—Legislative Essays—The Bankrupt Insurance Estates—More Insurance Charters—With Tax on Capital Stock, Exemption from Tax on Dividends—The Washington Fire and Marine—End of the Merchants' and Ultimate Extermination of the Continental—Stipulated Premium Note not presented and Policy not thereby avoided; Reinsurance Suits—Vessel Machinery as Maritime Risk—Progress of the Delaware Mutual—The Exchange Mutual and the Manufacturers' discontinue Marine and Inland Risks—Failure of an Insurance Bill in the Legislature—Concerning the End of the Great Western—The Legal and Insurance Reporter—Termination of the Safeguard, the Columbia Mutual and the Howard—The Pennsylvania Insurance Handbook—Exeunt the Corn Exchange and the Hope Mutual—The Board of Marine Surveys and the Rules of the United States District Court with Respect to the Surveys—The Insurance Company of North America, the Insurance Company of the State of Pennsylvania and the Delaware Mutual Safety Insurance Company in 1860—Result of a New Trial in the Case of the Schooner Orb—Collapse of the Quaker City, the Eastern, the Neptune and the Washington—The Liability for Losses of the Guaranty Notes of the Western—About Assignees of Bankrupt Companies. (1849-1861.)*

TOWARDS the close of the fifth decade of the century it was manifest, notwithstanding the defective statistics, that the values covered by Philadelphia fire policies were in excess of those covered by the marine policies. To the mere business adventurer both classes of risks presented about like opportunities for speculation, and the character of underwriting was depreciating, and depreciating as much from the indifference or inability of established and respectable institutions to formulate technical methods or enlightened empiricism as from other causes. At this immediate period, however, marine casualties were in less relative ratio than the fire occurrences, and most of the few offices doing marine and inland business exclusively had some opportunity to protract such distinctive existence; but the Philadelphia Mutual was preparing to follow its predecessor, the Delaware. The second dividend to stockholders from the estate of the Delaware, \$1.50 per share, was payable January 14, 1848. The premiums on determined risks of the Philadelphia Mutual amounted, for the year 1848, to but \$17,263.90, against losses, reinsurance payments and return premiums to the amount of \$15,604.20; and the assets had decreased by January 1, 1849, to \$112,947.82.

Both the Union Mutual and the Phoenix Mutual were advancing: the former, at the close of 1848, had \$293,901 of assets—interest received during the year



\$9,260.14; the Phoenix making less progress than the Union, had, at the close of the year, \$190,315 of assets—interest received during the year, \$6,299.39. Total receipts of the Union in 1848, \$156,192.85; disbursements, including losses in process of payment, \$93,634.28. By the Phoenix there were received \$70,850.24, and \$39,796.54 were paid out. The funds of the Union Mutual were now in excess of those of the Insurance Company of the State of Pennsylvania, and the former had declined the assumption of fire risks upon which the latter company had entered. Largely the Union Mutual represented the early usages and followed the marine traditions of the past. The Union had waited until 1842 before writing upon inland transportation risks.

In the month of February, 1849, a bill was introduced in the State legislature to allow the stockholders of the Philadelphia Mutual to wind up its affairs, and such bill passing both houses and being signed by the governor, the company was put in process of liquidation, and the office of the Philadelphia Mutual, No. 3 Exchange building, was occupied by David P. Reisch as agent of the Astor Mutual Insurance Company of New York, a company also writing marine and inland risks. June 26, a dividend of 90 per cent. of the assets of the Philadelphia Mutual was declared on stock and scrip, and July 1 the remaining 10 per cent. was appropriated to the scrip account.

In the course of years many perpetual fire policies were apt to become mislaid, and other policies likewise had been lost; this, as throwing burden of proof on the insured in event of claim for loss, was a subject of legislative action, which provided the following remedy, approved March 4, 1850, referring to lost policies insuring any kind of real or personal property, but most important in respect to perpetual fire insurance:—

SECTION 1. Whenever any policy of insurance upon any property, real or personal, granted by any body corporate or politic, shall have been lost or destroyed, such body corporate or politic shall, on proof of the loss or destruction of the same, in the manner hereinafter provided, furnish to the person or persons whose policy has been so lost or destroyed, a copy of the same, together with the transfers, which have been approved and recorded on the books of such body corporate, if any, which may have been made by the original or any subsequent grantee of such policy to the person or persons having the same at the time of the loss or destruction thereof; the copy so made to be as effectual for the security and indemnification of the person or persons holding the same as the original, and subject like it to transfer to any person purchasing the property insured.

SEC. 2. On the application of any person or persons to the Court of Common Pleas of the county in which the property has been insured, setting forth the loss or destruction of the policy of insurance, on oath or affirmation, together with a description of the property, the amount for which it was insured, the person or persons to whom granted, if practicable, together with the mesne transfers thereof, the court shall grant a rule on the body corporate or politic which granted such policy of insurance, commanding such body corporate or politic to appear before said court, on a day certain, not less than twenty days from the service of said rule, to show cause why a copy of such policy of insurance should not be supplied, in pursuance of the provisions of the first section of this act, and on the default of such body corporate or politic to appear and show cause why such copy as aforesaid should not be supplied, the court shall issue a mandate to such body corporate or politic to furnish such copy in ten days after the service of the same; and on the neglect or refusal of such body corporate or politic to furnish a copy as aforesaid, the court, on due proof of the service of such mandate, and the neglect or refusal of such body corporate or politic to furnish such copy, shall direct a judgment to be entered by the prothonotary in favor of the person or persons making the application, against the said body corporate or politic, for the sum for which the said policy of insurance was granted, which said judgment shall stand for the security of the plaintiff or plaintiffs, for such time as the policy of insurance itself would have done, and for the like purposes; and the costs of the

proceeding shall be paid by the defendant; and the officers rendering services shall receive the like fees as are now allowed by law for similar services.

SEC. 3. The rule and mandate to be issued under the provisions of the preceding section, shall be directed to the sheriff of the city and county in which the body politic or corporate has its office, or any branch or agency thereof, and the service shall be sufficient if made upon the president, secretary, treasurer or authorized agent thereof: *Provided*, That no rule shall be entertained by the court such as is authorized by the second section of this act, unless the person or persons entitled to the benefit of the policy, his agent or attorney, shall make oath or affirmation that the policy of insurance has been lost or destroyed, and that a demand for a copy of such policy was previously made of the president, secretary, treasurer, or authorized agent of the body corporate or politic which granted it, and a tender of not less than one dollar for the expenses of making such copy.

The experiment of the Washington Mutual was yet continued. For the official years ended October, 1848 and 1849, the exhibits of this organization were as follows:—

	1848.	1849.
Premiums received, . . . . .	\$41,600 22	\$36,077 24
Less returned premiums, . . . . .	3,705 51	3,014 98
	<hr/>	<hr/>
	\$37,894 71	\$33,066 26
Interest, . . . . .	666 12	1,053 45
	<hr/>	<hr/>
	\$38,560 83	\$34,120 71
Losses and reinsurance, . . . . .	\$14,722 70	\$19,008 68
Expenses, . . . . .	5,173 57	4,962 55
Dividend, . . . . .		4,097 70
	<hr/>	<hr/>
	\$19,896 27	\$28,068 93
Total assets, . . . . .	\$113,792 31	\$119,001 74

The sum of \$7,903.73 was set apart in 1848 to meet scrip dividend.

In December, 1849, notice was given by the commissioners to receive applications for insurances, of a meeting to organize under an act incorporating the Mercantile Mutual Insurance Company of Philadelphia, approved April 9, 1849. Twelve directors were elected. Edward Harris Miles was chosen president, Wm. M. Godwin vice-president, Wm. D. Sherrerd secretary. The charter authorized all the powers conferred upon the Insurance Company of North America. Vessel, cargo, and freight risks in the navigation "to all ports in the world," and insurance on "goods transported by rivers, canals, lakes, and land carriages to all parts of the Union," were the chief purpose, fire risks being held under consideration. Subscription notes constituted the financial basis of the project.

April 30, 1849, the Insurance Company of the State of Pennsylvania had been authorized to transact business in New York, and its exhibit, filed in the State bureau, January 11, 1850, showed \$297,835.66 of assets, and the risks of 1849, with premiums and other income, as per the following:—

	1849.	
Fire risks written, . . . . .	\$5,159,448 00	
Amount premiums, . . . . .		\$28,508 40
Marine risks written, . . . . .	992,431 00	
Premiums thereon, . . . . .		20,884 13
Interest on loans and dividends on stock received in 1849, . . . . .		19,669 51
		<hr/>
		\$69,062 04

Outstanding risks, January 1, 1850, as follows:—

Marine policies, 78; amount, . . . . .	\$306,947 00	
Premiums thereon, . . . . .		\$2,123 55
Temporary fire policies, 697; amount, . . .	3,075,713 00	
Premiums, . . . . .		23,085 13
Perpetual fire policies, 29; amount, . . . .	69,900 00	
Deposits, . . . . .		1,635 50
(Barnes's Condensed Reports, I, 499.)		

The Insurance Company of North America, also admitted to New York, reported at year ended January 14, 1850, \$911,667.40 of assets; surplus at date named, \$223,698.01. With capital now 60,000 shares, at \$5 per share, a dividend of 6 per cent., and an extra dividend of 6 per cent., were declared.

*Marine Risks.*

	Amount Insured.	Premiums.
Undetermined, Jan. 8, 1849, . . . . .	\$6,929,870 00	\$209,461 77
Underwritten since, . . . . .	27,632,131 00	519,650 03
	<u>\$34,562,001 00</u>	<u>\$729,111 80</u>
Determined, . . . . .	26,683,982 00	491,471 23
Undetermined, . . . . .	\$7,878,019 00	\$237,640 57

*Temporary Fire Risks.*

Undetermined, Jan. 8, 1849, . . . . .	\$10,862,045 00	\$49,066 43
Underwritten since, . . . . .	18,371,165 00	75,275 33
	<u>\$29,233,210 00</u>	<u>\$124,341 76</u>
Determined, . . . . .	16,998,588 00	66,492 81
Undetermined, . . . . .	\$12,234,622 00	\$57,848 95

*Perpetual Fire Risks.*

January 8, 1849, . . . . .	\$332,400 00	\$7,569 87
Underwritten since, . . . . .	23,000 00	470 00
	<u>\$355,400 00</u>	<u>\$8,039 87</u>

(Barnes's Condensed Reports, I, 514.)

By the report of the auditor-general for 1850 the following taxes were paid by Philadelphia marine companies: American Mutual, \$106.25; Phoenix Mutual, \$336.37; Union Mutual, \$545.22; Washington Mutual, \$40.35.

According to the report for the year ended June 30, 1850, of the Register's office, Treasury department, Washington, the registered tonnage for the port of Philadelphia of vessels was 64,205 $\frac{10}{95}$ ; enrolled and licensed, 142,292 $\frac{72}{95}$  tons. The fraction in such enumeration came from a division by 95 in the United States measurement of the product of the length, beam, and depth of hold, as they were respectively taken—the beam being the controlling factor. The beam was measured at the extreme breadth to the outside of the bends. The length, which was multiplied by the beam, was the remainder after deducting three-fifths of the beam from the extent between the fore part of the main stem and the after part of the stern-post. In a double-decked vessel half the breadth of beam was taken as depth of hold, and the same was admitted for single-decked vessel, but the hold of the single-decked vessel was measured at the fore part of the main hatchway from the deck down to the ceiling, alongside of the keelson or keelson. Philadelphia ship carpenters computed the tonnage with a measurement at keel for length, and the beam was measured from skin



to skin on the inside. For the registration year ended June 30 there were built in Pennsylvania 7 ships, 1 brig, 39 schooners, 107 sloops and canal boats, and 31 steamboats, with a total tonnage of  $21,409\frac{9}{5}$ . In the calendar year 1850 there were built in Philadelphia 132 vessels, in the aggregate of  $16,420\frac{6}{5}$  tons' burden, viz.: 1 ship,  $1,240\frac{7}{5}$  tons; 4 barques,  $1,265\frac{8}{5}$  tons; 2 brigs,  $382\frac{8}{5}$  tons; 18 schooners,  $2,037\frac{4}{5}$  tons; 14 sloops,  $432\frac{6}{5}$  tons; 21 steamboats,  $4,824\frac{7}{5}$  tons; 72 barges,  $6,236\frac{1}{5}$  tons.

January 31, 1851, the Mercantile Mutual closed its first year with \$180,775.16 premiums received.

Premiums earned, . . . . .	\$113,933 76
Losses, return premiums, expenses, etc., . . . . .	87,572 44
	<u>\$26,361 32</u>
<i>Assets.</i>	
Bills receivable, . . . . .	\$97,923 92
Premiums unpaid and other unsettled accounts, . . . . .	32,114 01
Scrip of mutual companies, . . . . .	565 00
Real estate (cost), . . . . .	17,000 00
Subscription notes for 1851, . . . . .	191,500 00
Cash in bank, . . . . .	3,398 95
	<u>\$342,501 88</u>

A scrip dividend of 20 per cent. of earned premiums was declared.

This effort to add another to the marine or marine-fire insurance companies of the city was a respectable enterprise, and the asset figures were published in good faith; but so the way was opening for what was to come!

Another entrant under the act of January 24, 1849,\* was the Commercial Insurance Company, of Charleston, S. C.; Richard S. Newbold, agent. The Commercial was a new stock company with part note capital. Mr. Newbold was an active broker "effecting free of charge to the insured," fire and life as well as marine insurance, in Philadelphia, New York, Boston, and Baltimore, and was one of the charter members of the Penn Mutual Life Insurance Company.

The marine-fire offices of the city remained predominantly marine offices, and were participating in a season of comparative exemption from the severity of disaster on the high seas. Inland navigation was developing varied peril—the United States Coast Survey reported the occurrence of 233 steamboat

\* To the legislature meeting after the approval of the act of 1849, relative to non-State companies, William F. Johnston, governor of Pennsylvania, discoursed as follows in his annual message, respecting the securing of "a large revenue to the commonwealth" by laying non-State capital under contribution:—

"No effectual mode has been devised to compel the agents of foreign insurance companies to make a semi-annual exhibit of the amount of funds employed by their respective companies within this commonwealth. A law having an effect of this character is highly necessary, and would be productive of decided advantage. In the enactment of such a law it would be well to make the certificate issued to agents of said companies subject to taxation. Incorporated companies of various kinds deriving their charters elsewhere have agencies in the State and transact business therein, and yet no accurate account is taken of the money employed or of the value and profits of their investments. Were the proper departments required to make a list of these incorporations, and authority given to ascertain the amount of the investments, the rate of dividends declared, or the profits made, and a tax levied on such dividends or profits, as well as on the capital stock employed, a large revenue to the commonwealth would be the result."

There were received into the State treasury, for "the use of the commonwealth," during 1850, the following sums, accruing under the act of January 24, 1849:—

Lancaster county, . . . . .	\$ 42 75
Philadelphia county, . . . . .	2,718 08

There was a receipt in 1849 of \$29.68, twenty per cent. premium tax, under the act of April 23, 1829, from the agent at Butler of a Life, Fire, Marine and Inland Insurance Company of New York.

explosions in the period from 1816 to 1848, inclusive, in seventy-five instances of which the material damages amounted to \$997,650. The Delaware Mutual, with its relatively large proportion of fire and inland navigation business, showed for year ended October 31, 1849, marine and inland premiums, \$181,174.97; marine and inland losses, \$125,245.23; fire premiums, \$74,579.09; fire losses paid, \$72,911.48. The courts were applying or modifying, in inland navigation cases, the old marine doctrines as to the blending of volition and peril. James May had effected an insurance, March 8, 1847, of \$4,000 for one year on steamboat St. Anthony, in the Delaware Mutual—boat valued at \$11,000. The St. Anthony, in May following, struck a rock in the channel of the Ohio river, by which she was so much injured that it was necessary to run her ashore, after having transferred her cargo to keel-boats, when she afterwards filled with water and sank. The boat was raised by the officers and crew with the help of extra hands. It was stipulated in the policy that "in case of any loss or misfortune it shall be lawful, and it shall be the duty of the assured, his factors, servants and assigns, to sue, labor and travel for, in and about the defence, safeguard and recovery of the said steamboat, or any part thereof, without prejudice to this insurance, to the charges whereof the assurers will contribute in proportion as the sum insured is to the whole sum at risk." Loss was partial. Suit was begun in District Court, Allegheny county, to have the wages and provisions of the crew, as well as the extra hands, included in the apportionment of damages; action of assumpsit, policy not having been actually taken out. The common carrier is, *per se*, the insurer of his lading, except as against "the acts of God or the public enemy." The pleas were: 1. Non assumpsit. 2. That the boat was not damaged by any perils against which the defendants had insured. 3. That the boat was unduly laden and damaged in consequence thereof. 4. That the loss sustained by the boat arose from an improper attempt on the part of the plaintiff to navigate the Ohio river with said boat when the water was too low for prudent and safe navigation by a boat of her class. 5. Payment, etc.

The District Court, in sustaining an objection of the defendant, held that it was incumbent on the owner of the steamboat to employ a competent crew, who were bound to exert themselves to the utmost for the safety of the vessel; but when it is necessary to obtain the assistance of more men, or of men of a different craft, in order to save or repair the vessel, the insurers were liable for such additional expense. It was admitted that the plaintiff was indebted to the defendant for \$566.75 on this and other policies. Amount of plaintiff's claim, when reduced by rejecting wages of crew, and cost of furnishing provisions to them while employed in raising the boat and bringing it back to Pittsburgh, with deduction of one-third of the cost of new work from repairs, fell somewhat short of what he owed defendant, and the jury found a verdict in favor of the defendant, on which judgment was entered.\*

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\* Supreme Court. In Error. Lowrie, J.:

"General average is a contribution by all concerned, etc., but a resort to a port of necessity to repair is not of this character, for it is no sacrifice on the part of the owner of the vessel who is employing her himself, as is the case here. The duty to have a competent crew, and for them to do all that is reasonably possible for the safety and delivery of the cargo, is essentially involved in the relation of carrier, and upon



The uncertain Globe Insurance, Life Insurance, Annuity and Trust Company now appeared among the marine-fire companies, and the Philadelphia Fire and Inland Navigation disappeared. The Tennessee Marine and Fire Insurance Company opened early a marine and fire agency under the act of 1849—F. Harold Duffee, agent. By companies writing marine and fire risks the following taxes were paid, according to the report of the State auditor-general, for 1850: Delaware Mutual Safety, \$174.34; Globe I., L. I., A. and T. Co., \$94.25; Insurance Company of the State of Pennsylvania, \$600.00; Insurance Company of North America, \$2,880.00.

With successive net annual earnings in its marine department from 1845, the Insurance Company of North America arranged to capitalize \$200,000 of its net surplus, with the par of shares advanced to \$10 per share. To this end a supplementary act was approved May 8, 1850, to set apart such capital, provided "that the amount of the effective funds of the said company shall be equal to five hundred thousand dollars beyond reservations and claims for existing business." This received the requisite assent of the stockholders. At the close of 1850 the assets of the company were \$1,001,255.50.

With subscriptions by sixty-nine firms and individuals to 1,000 shares at \$100 per share, the Philadelphia Insurance Company, for fire, marine and inland insurance, was started in February, 1851; act of incorporation approved February 7. Then, March 29 following, the mutual principle was introduced in association with the stock interest, with equal annual division of earnings in proportion to amount of stock and amount of earned premium among shareholders and policyholders respectively, after deducting 6 per cent. interest on an official valuation of the capital stock, according to the supplement of the charter of the Columbia;—Joseph Coperthwait, president; Joseph M. Thomas, vice-president; Wm. Martin, Jr., secretary.

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its performance depends the earning of freight, and for its performance freight is the consideration; their wages fall on the freight. . . . Reasons of policy drawn from the necessity of interesting the sailors in the preservation of the ship prohibit all sorts of insurance on their wages." (7 Harris, 312.)

As to wages and provisions of a ship's crew as allowable in an adjustment of a general average, the following was a decision in the District Court, Philadelphia, (The Insurance Company of North America *vs.* Harris):—

Harc, J.: "That wages and provisions, at a port of necessity, are general average under the law of this country, is conceded by both parties to this controversy; the only question being whether the adjustment should be regulated by the law of the country to which the ship is bound, by the *lex loci contractus*, or by that of the port where the detention takes place, and where the expense is incurred which constitutes the general average. Between the two latter propositions a question may arise, depending in some degree upon circumstances which need not be decided in the present instance, where the ship sailed from Philadelphia and took refuge from the stress of weather at Charleston, and where the port of necessity, the port of departure, and the *lex loci contractus* are all in the same country and under the sway of the same jurisprudence. And we think it extremely plain that the law of the place of destination has no bearing upon the question in controversy. To ascertain what is meant by two or more contracting parties, we look, in general, to the *lex loci contractus*; to know in what way the agreement should or must be performed, regard must often be had to the place of payment or performance; when the contract is one of indemnity, it may be necessary to investigate the law of the tribunals which have estimated or apportioned the injury, and to accept their conclusions instead of those which would, under like circumstances, have been our own. Hence the law of the place where an injury happens, and where a consequent liability to contribution has its origin, may be the law by which that contribution should be measured, because the local tribunals would have been governed by it, had not the necessity for their interference been obviated by acquiescence. But that the law of a port where the contract is not made, and where the events which constitute the cause of action do not happen, should be held to govern, merely because it happens to be that of the place to which the ship is going, but which she may never reach, would be contrary to reason, and is, I believe, wholly unsustained by authority.

"The point reserved is accordingly decided in favor of the defendant, and the verdict reduced by the sum of one hundred and twenty-three dollars and eighty-three cents." (3 Phila., 136.)



The Columbia had become of the mixed mutual order by a supplement to its charter approved March 11, 1850. For year ended October 31, 1851, the Columbia Mutual made this exhibit:—

Marine premiums received, \$16,670 76	Marine losses paid, . . . \$17,072 12
Fire premiums received, . . 11,666 19	Fire losses paid, . . . . . 3,259 22
	Expenses, . . . . . 3,703 38
	Reinsurance, . . . . . 1,365 00
<u>\$27,836 95</u>	<u>\$25,399 72</u>

Total assets, . . . . . \$102,677 26

In these assets were \$59,994.50 bills receivable.

The board of directors of the Philadelphia Insurance Company made, November 3, the following statement, showing \$4,367.51 of net earnings on the operations of the company from its commencement, February 25, 1851, to October 31, 1851; and therewith a cash dividend was declared of 4 per cent. on the capital stock, additional stock notes having in the period been put in.

Premiums received on marine and inland risks, . . . . .	\$47,081 08
“ “ fire risks, . . . . .	24,609 08
	<u>\$71,690 16</u>
Earned premiums during the period on marine risks, . . . \$19,596 90	
“ “ “ “ fire risks . . . . .	2,395 91
	<u>\$21,992 81</u>
Interest, . . . . .	1,476 93
	<u>\$23,469 74</u>
Marine losses, . . . . .	\$10,542 14
Return premiums and reinsurances . . . . .	2,265 75
Expenses, . . . . .	5,151 75
Profit and loss, . . . . .	1,142 59
	<u>\$19,102 23</u>

*Assets.*

Bills receivable, . . . . .	\$61,336 44
Cash on hand, . . . . .	5,535 06
Premiums on policies recently issued, . . . . .	5,900 15
Debts due the company, . . . . .	1,357 59
Insurance stock, . . . . .	500 00
Subscription notes, . . . . .	150,000 00
	<u>\$224,629 24</u>

An insurance company never fails. This, however, is rather an economic idea than a realization in practice—still an insurance company never fails. We are about entering upon the record of a series of failures. A sort of fire-marine insurance mania began with 1850. The speculations subsequently set on foot were not all frauds. Ignorance and incompetency could result in the defeat of an honest purpose, as well as deceit could defeat the hope of those that trusted it. The game of over-confidence was played all around, the recognition of a vast responsibility rejected. Insurance was simply a kind of business which could be carried on, hit or miss, to run the chances like a trader's shop, and the underwriter's office could be conducted upon a larger proportionate basis of credit than even the trader's shop could.

Meanwhile, as something relative to the handling of a marine policy (cargo)—and as inquiry into its application—the question came up: Does medicinal

pink root come within the exemption of this phraseology? “. . . Seeds of all kinds, Fruits, whether preserved or otherwise, Dry Fish, Vegetables and Roots, prepared or otherwise, Rags, Hempen Yarn, Bags, Cotton Bagging, and Other Articles used for cotton bagging, Pleasure Carriages, Household Furniture, Musical Instruments, Looking Glasses, Skins and Hides, and all Articles Perishable in their Own Nature, are warranted by the Assured free from average (except general), unless it happen by stranding and amount to twenty per cent. on the whole aggregate value of such articles. . . .”;—such exception to particular average being embraced in what was called the memorandum clause. At Nisi Prius, Philadelphia, an action of covenant was brought under a policy issued to F. Klett & Co., druggists, by the Delaware Mutual, to recover for a loss on fifteen bales of pink root consigned to the plaintiffs—injured by perils of the sea other than stranding. Plaintiffs offered to prove the value and character of pink root as an article of commerce, which proffer of testimony was rejected, and evidence was then taken as to usage.

A druggist was called for the plaintiffs, who said that he had been in the habit of having drugs insured for many years, among others pink root, and had always considered it as not within the memorandum article. Before this trial he had, however, never conversed with anyone on the subject in question. Another druggist believed it was generally understood that pink root was covered by such a policy; pink root will last for ten years or longer; formerly tops and all were sent to market, now only the roots are sent; “it is always shipped to England with tops as well as roots; it is cut up and prepared.” On his cross-examination he said he had scarcely known an instance of a claim made for damage to it, except in this case. Another druggist said he had known pink root to be insured; always considered himself safe in such an insurance; did not know what the insurance offices considered on the subject. He said he had pink root on hand ten or twelve years—“it is not perishable.” He did not know that he had ever read the memorandum in question. The plaintiffs’ counsel then closed their case, and the judge, on motion, ordered a *non pros.*, because the plaintiffs had “failed to show that pink root is not a root within the meaning of the memorandum clause of the policy as established by mercantile custom, and so understood by the underwriters.”

It was assigned for error—1, that the court erred in rejecting the evidence offered; 2 and 3, in directing a non-suit for the reason assigned.

For plaintiffs in error it was submitted that the object of introducing the memorandum clause into marine policies was to except articles perishable in their own nature, and which were liable to deteriorate from inherent decay or internal decomposition, or easily damaged; that shipments of pink root were not sufficiently frequent to afford any usage or custom in relation to it particularly.

For defendant it was contended that all prepared roots were included in the policy terms. Prepared roots are dried roots. The word is not confined by the policy to *esculent* roots. If it were proper, according to 2 Arnould, 851-2, to prove that the term “roots,” standing alone, may mean only *esculent*

roots, it may have been going too far to have allowed plaintiffs to show that *prepared* roots do not mean *dried* roots, contrary to the language of the policy.

Woodward, J.: "Roots, prepared or otherwise," is a designation which must be held to comprehend a particular "root cut up and prepared," unless we wilfully violate the law of language. The terms used in a policy, said Lord Ellenborough, in *Robertson vs. French* (4 East., 135), are to be understood in their plain, ordinary, and popular sense, unless they have generally, in respect to the subject matter, as by the known usage of trade, or the like, acquired a peculiar sense distinct from the popular sense of the same words. The plaintiffs failed to show any usage to control the effect of the terms used in the memorandum clause, and therefore the court were right in entering a non-suit.\* (11 Harris, 262.)

In March, 1850, the following bill of lading had been signed by the master of the schooner named:—

SHIPPED in good order and well conditioned, by Henry Roser, on board the schooner called the Julia Eliza, whereof Higbee is master, now lying in the port of Savannah, and bound for Philadelphia, to say: 104 round bales of cotton, on deck, being  
13 marked and numbered as in the margin, and are to be delivered in the like good  
 1@79 order and condition at the port of Philadelphia (the dangers of the seas only excepted), unto order or to assigns, he or they paying freight for the said cotton at  
18 75 cents per bale, with primage and average accustomed. In witness whereof the  
 1@25 master or purser of said schooner hath affirmed to four bills of lading, all of this tenor and date, one of which being accomplished, the others to stand void.  
 Dated in Savannah, the 30th day of March, 1850.

April 5, a policy of insurance on this cotton was executed by the Insurance Company of North America, in the sum of \$5,200. The policy was "on goods valued as per endorsement on policy in vessel or vessels." Endorsement was as follows:—

Date of Endorsement.	Vessel.	Loading to Destination.	Rate.	Premium.
April 5, 1850, . . . . .	Sch. Julia Eliza.	Savannah to Phila. on deck 104 bales, val'd at \$50 per bale. Amount insured, \$5200.	1 ½	\$78

During a storm four of the bales marked [18] were washed overboard. Claim was made for the value of the same—\$200. The corporation denied its liability: 1. Under the clause, "But no loss or average shall in any case be paid under five per cent., unless general"; 2, by the custom of the port of Philadelphia such loss is not recoverable. Suit was brought in the District Court—action of covenant—by Newlin & Allibone to the use of Roser. The jury found against the custom set up by defendant, and in favor of the plaintiffs for the amount claimed, which the court afterwards, in banc, agreeably to the reservation of the presiding judge, set aside, and entered a judgment for the defendant. Such setting aside of the verdict and entering of judgment were assigned for error.

\* It is competent to show that the word "roots," inserted in policies of insurance, is confined to such as are perishable in their own nature; that sarsaparilla is not perishable in its own nature, and not included in the memorandum. (*Coit vs. Commercial Ins. Co.*, 7 Johns., 385 N. Y.)



For plaintiff in error it was contended, while admitting no separate insurance for each bale, that the separation of the cotton divided the insurance in like manner, and there was consequently a loss of more than 5 per cent. of the value of the 25 bales marked [18]. This was an argument from the bill of lading rather than from the policy.

Was there a total loss of 4 bales, or a partial loss of 104 bales? The opinion of the Supreme Court was delivered by Black, C. J., who said, *inter alia*:—

It may be safely laid down as the American rule, that a total loss can never be said to occur when any portion of the thing insured is preserved in specie. As to memorandum articles, or goods warranted free from particular average, the insurer agrees to pay only for a total loss or for general average, and therefore he can only be held when the whole thing goes to the bottom, or a part is thrown overboard to save the rest. Of property so insured, a partial loss, whether caused by a reduction in quantity or in value, falls upon the owner himself. But admitting that a separate valuation of the separate packages or parcels of the same species of goods is the same as an insurance, in terms distinct and separate, on each parcel, can we consider this a case of separate valuation? None of the writers who assert this doctrine has told us exactly what he means by separate valuation.

The policy before us furnishes an instance of what is, to all intents and purposes, a separate valuation of rice in casks, shipped by the same vessel and endorsed at the same time: "20 casks, marked H. O., valued at \$22 each, total \$440; 17 casks, marked M. O., valued at \$21 each, total \$357." This was a distinct valuation, and perhaps a separate insurance of the 20 casks from the 17, but not of every single cask from every other one.

Cases must have occurred very often where claims like the present could have been made. The fact that this is the first one on record shows the opinion of the mercantile world to be against it. Convincing evidence to the same effect is also found in the general, if not universal practice of stipulating expressly, when average is not intended to be counted on the whole, for average on each package, or on some number of them less than all. The policy before us furnishes an instance: 100 casks rice, \$23 each—each 20 casks, running numbers, subject to separate average. This shows that the present construction of the plaintiffs was not within the contemplation of the parties at the time the insurance was effected; for it is altogether improbable that an agreement would have been made for a separate average on each 20 casks if it had been supposed that, by the terms of the endorsement, there was already created a binding obligation to pay average on each individual cask.

The custom of exempting the insurer from liability for particular average under a certain rate—one, three, five, or ten per cent.—is universal. Its object is to protect them from claims or losses too trifling to cover the expenses of ascertaining them. (3 Pardessus, 423.)

It is our opinion that the percentage in a case like this is to be counted on the whole value of the commodity insured, and that there can be no recovery for a loss or damage under that proportion, unless it happens by way of general average. This rule is consistent with the universal practice, and according to the reason of the thing, and there being no adjudicated case against it, we have no hesitation about pronouncing it the law of this State. (8 Harris, 312.)

Special reference to Harvey G. Tuckett belongs to the life insurance division of this history, and not to this one, but it is to be noted here that, January 15, 1852, appeared No. 1 of Tuckett's Monthly Insurance Journal,—Health and Friendly Societies' Monitor: A Scientific, Independent and General Record, and devoted to all branches of insurance. Harvey G. Tuckett's criticisms and investigations had suggested that there was a field and occasion for such a publication, and so the first insurance journal in the United States began its career. At the start the name of the Journal's editor indicated the spirit and character of the sheet. It would be Harvey G. Tuckett in print; following the common journalistic type, it would not be impersonal. It would deal in prosecution or advocacy rather than preserve a judicial equipoise or expository methods. He, however, stood almost alone in whatever views he might have

had in respect to the office of his monthly, and he could bravely stand alone. Defiance was his forte. As a rule, so far as insurers or insured had, or had attained, any idea in respect to an insurance journal, it held, with them, about the same relation to insurance that a counterfeit note detector held to finance. Its business was to expose "bogus" insurance companies. By temperament, Tuckett was ready and willing enough to engage in the exposure business to the fullest extent, and where he was hostile he assailed fiercely and not always with discrimination; but as a man of intellect and culture, he could not become altogether a mere gazetteer of unwarranted pretence, official audacity and ignorance, trade quackery and scheming knavery. He understood the underwriter to be an instrument for insurance—he did not understand insurance to be an instrument for the underwriter. He had no faith in insurance as a trade, he believed in it only as a systematic, scientific economy. He was not in connection nor alliance with any office or class of offices. If his pursuits as consulting actuary in something set up the relation of counsel and client, his position otherwise was independent. Outside of life insurance and health insurance he, however, knew nothing of his subject—but he was a quick learner, and the Journal soon began to show that he had corrected errors and crudities which, even in respect to life insurance, he had fallen into.

In its second year, which ended January 31, 1852, the Mercantile Mutual received for premium on its risks written—marine and inland—\$236,479.92, so fully doubling the premium receipts in the first year. With net earned premiums in the period amounting to \$173,287.83, there was an earned surplus for the year of \$30,576.02, after deducting from the earned premium \$142,711.81 of losses, reinsurances, expenses, etc., paid. A 10 per cent. scrip dividend was declared on the net earned premiums of the year, and 6 per cent. interest payment on outstanding scrip ordered. So far as dividend distribution would not hinder, there appeared to be an opportunity to make an insurance company out of the project, and the management was evincing that it was not altogether incompetent for such a task. But whether the Mercantile Mutual should turn out in the end to be an insurance company or a mere temporary pool, was for the future to determine. At the end of its second year, as at the end of the first, the assets consisted chiefly of bills receivable and subscription notes.

The Phoenix Mutual, with \$303,897 of assets, declared out of the results of 1851 a 6 per cent. cash or interest dividend on capital stock and outstanding scrip, and issued scrip certificates for 20 per cent. of earned premiums.

The General Mutual Insurance Company of New York began in Philadelphia in the summer of 1852, with William D. Sherrerd as agent.\*

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\* In the December term, 1852, of the United States Supreme Court, a decision was rendered upon an action arising out of a collision of vessels near the entrance to the harbor of the city of New York (the General Mutual Insurance Company, plaintiff in error, *vs.* Ebenezer Sherwood). The brig Emily had been insured by the company during one year from October 17, 1843, for the sum of \$8,000—the vessel being valued at \$16,000. Within the time of the policy the brig ran into a sloop called the Virginia, and the sloop sank. The brig was then libelled in the District Court of the United States by the owners of the schooner and her cargo. A decree was made by the District Court whereby it was adjudged "that the collision in the pleadings mentioned, and the damages and loss incurred by the libellants in consequence thereof, occurred by the negligence or fault of said brig, and that the libellants were entitled to recover the damages by them sustained thereby." (There was the want of a proper lookout on the brig, and the



The State as common carrier had, in instances, paid claims arising from destruction of goods, etc., in transit over the canal and rail transportation of the public works, appraisements being made by the board of canal commissioners of such damages as had been occasioned by any neglect or misconduct of any State officer or agent, or from defect in machinery and breaches in canals. Such remunerations were made when the owners had not been insured. The Delaware Mutual had insured cases of stained glass to go by such conveyances, and the company was subrogated to all the claims of the insured against the carrier in event of loss. April 20, 1852, the following act of the legislature was approved:—

SECTION 1. Be it enacted, etc., That the canal commissioners be, and they are hereby authorized and required to examine the claim of the Delaware Mutual Safety Insurance Company, for alleged damages sustained on the Allegheny Portage railroad, arising from the destruction and injury of eleven cases of ornamental stained glass, insured by said company, by the improper management of the engineers and agents on said railroad, and report the facts of the same to the legislature.

The canal commissioners made their report, and the subsequent action of the legislature was adverse to the company's claim.

As experience enlarged, and brought in new incidents, the language of the marine contract varied: first, by the particular phraseologies of different companies; second, by accessions to what may be called the basis terms. Exceptions to the general hazard of the fundamental policy were increasing. When courts enlarge the general hazard by interpreting adversely to the underwriter's standard, through the theory of rightful favor to the insured, due to his position, the underwriter has two resources—first, to advance the premium to secure adequacy to the increased hazard; second, to exclude by express terms certain particulars of the general hazard. The latter, as reductive of the extent of his trade, is not normally preferred by the underwriter (though exceptionally, like other dealers, he may find that he can deal better with some things in his line than he can with others); but when competition

chief mate gave an erroneous order.) The damages being assessed, a decree therefor was made by the District Court, which, on appeal, was affirmed by the Circuit Court.

Before the Supreme Court, in error to the Circuit Court, Justice Curtis, in delivering the opinion of the court, said: "Although there was a demurrer on the first two counts in the declaration, and a trial upon the general issue pleaded to the other counts, and a bill of exceptions taken to the ruling at the trial, yet the same question is presented by each mode of trial, and that question is, whether under a policy insuring against the usual perils, including barratry, the underwriters are liable to repay to the insured damages, paid by him to the owners of another vessel and cargo, suffered in collision occasioned by the negligence of the master or mariners of the vessel insured." After a review of the authorities on the subject of maritime insurance, and the practices in different countries under commercial law, the court arrived at the conclusion that the underwriters were not liable, although collision, *per se*, was a peril insured against, as being accordant with the practical interpretation of the contract by underwriters and merchants, and "the safer and more expedient rule."

In respect to the general aspects of the subject, the opinion set forth that "the great and increasing internal navigation of the United States, carried on over long distances, through the channels of rivers and other comparatively narrow waters, where the dangers of collisions and the frequency of their occurrence are much greater than on maritime voyages, renders the respective rights of underwriters and insured growing out of such occurrences of more moment in this than in any other civilized country." (14 How., 351.)

A statement made by Capt. G. W. Rounds, an inland-marine insurance agent, of the disasters on the northern lakes—Erie, Ontario, Huron, Michigan and Superior—gave a loss of \$992,659 from 229 disasters in 1852; from collisions, \$261,959; other casualties, \$730,700;—loss by steam vessels \$633,620, by sail vessels \$359,039 (largely on Lake Erie, viz., steam vessels on Lake Erie \$543,479, sail vessels \$197,830). Six steamers, 7 propellers, and 35 sail vessels went out of existence. Of the casualties, 7 occurred in April, 19 in May, 24 in June, 15 in July, 16 in August, 21 in September, 27 in October, 85 in November—one gale on the 11th and 12th causing 55 of this number—and 15 in December.



defeats attempted adjustment of premium to hazard, the underwriter is driven to reduce hazard to premium. If the mountain will not come to Mohammed, Mohammed must go to the mountain.

The policy (S. G. F.) agreed upon in 1841 by the Philadelphia marine underwriters disappeared under subsequent pressure. As to vessel, the time policy of the Insurance Company of North America was now as follows:—

[No.—]

[ON VESSEL]

This policy of insurance witnesseth, that the president and directors of the Insurance Company of North America, by these presents do cause ——— to be insured in the sum of ——— lost or not lost, at and from the ——— day of ——— 18— at noon, and to continue until the ——— day of ——— 18— at noon; and if then on a passage with liberty to renew for not exceeding three months, if applied for before the expiration of the policy, but terminating twenty-four hours after her next arrival in any port. To return pro rata premium for each month not commenced of the extended time, no loss being claimed. Each passage subject to separate average. Warranted not to use ports on the continent of Europe north of Hamburg between September 15th and March 15th, nor ports north of Havre between November 1st and March 1st, nor ports in the British North American provinces north of Halifax (except in the Bay of Fundy) between August 15th and May 15th, nor the West India Islands in the months of August or September; also warranted not to use the Mediterranean east of the Ionian Islands, nor Guano Islands in the Caribbean Sea, nor ports in Texas except Galveston, nor foreign ports in the Gulf of Mexico, nor ports on the northwest coast of America north of Benecia, nor places over the Ocracoke Bar; nor the Min River higher than the anchorage below Kimpai Pass, nor Torres Straits, during the period insured. Warranted not to carry lime, nor more than her registered tonnage in iron, lead, marble, stone, brick, guano, or coal, on any one passage; also warranted not to carry grain in bulk, except from the ports of Philadelphia, New York, or Baltimore, and in all cases not to exceed one-half of the registered tonnage, and the loading to be under the inspection of a surveyor appointed by the board of underwriters for that purpose. The vessel is not to proceed to sea with grain in bulk, without a certificate from such inspector that the vessel is properly laden and fitted for her intended voyage.

It is agreed, that the premium under this policy shall be settled by two notes of equal amounts, at six and twelve months, and that in case of non-payment at maturity of the first note falling due, then this policy thereafter to be void and of no force.

For account of ———.

Loss, if any, payable to ——— upon ——— the ——— called the ——— whereof is master for this present voyage ——— or whosoever else shall be master of said vessel, or by whatever other name or names the said vessel, or master thereof, shall be named or called: Beginning the adventure upon the said vessel as aforesaid, and to continue during the voyage aforesaid.

And it shall be lawful, etc., [same as policy of 1841.]

Touching the adventures and perils, etc., [same as policy of 1841.]

And in case of loss, such loss to be paid in *sixty* days, etc., [same as policy of 1841.] But no loss or average shall in any case be paid under five per cent. *on each passage*, unless general.

Provided always, and it is further agreed, that if the said assured has made any other assurance, etc., [same as policy of 1841.]

It is also agreed that the vessel be warranted by the assured free [seizure and detention, 1841]; and also free from any charge, damage, loss or claim, on account of injury to any other vessel or her cargo, arising from collision of the vessel herein named with such other vessel.

It is further agreed that in case a total loss shall be claimed [basis of valuation, unseaworthiness, same as 1841. This passage is, however, stricken out of the policy of the North America: "And if the voyage aforesaid shall have been begun, and shall have terminated before the date of this policy, then there shall be no return of premium on account of such termination of the voyage."]

It is further agreed that one-third shall be deducted, etc., [1841.]

It is also understood and agreed, that if a technical total loss be claimed, similar deductions shall be made from the estimated repairs, and unless the nett cost thereof (exclusive of salvage charges) would exceed a moiety of the value of the vessel, after making such deduction, the loss shall be deemed partial only.

It is further agreed, that the assured shall not abandon in consequence of the port of destination being blockaded, but the vessel shall in such case have the liberty to proceed to another port not blockaded, which shall be substituted for the blockaded port.

It is also agreed, that in all cases of return premium, etc., [1841.]

It is also agreed, that no assignment, etc., [1841.]

As to the moot point of implied warranty of seaworthiness in time policy, the United States Circuit Court of the district, in October sessions, 1852 (Jones *vs.* Insurance Company), said:—

It may be true also that there is in a time policy a warranty of seaworthiness at the commencement of the risk, so far as lay in the power of the assured to effect it, so that, if the ship had not met with damage before, and could have been repaired by the exercise of reasonable care and pains, and was not,—the policy would not attach. But in all such cases, the plea must state such facts and circumstances as shall show, either that at the time the insurance commenced, the ship was in her original port of departure, and commenced her voyage in an unseaworthy condition and so continued till the time of her loss, or, that having come into a distant port in a damaged condition, before or after the commencement of the risk, where she might and ought to have been repaired, the owner, or his agents neglected to make such repairs, and the vessel was lost by a cause which may be attributed to the insufficiency of the ship. (2 Wall. Jr., 278.)

Though a revival of the marine writing from depression followed the mutualizing of marine offices, such revival was rather but coincident with the project for return of part of surplus of earned premium, at least not altogether caused by it. In such revival the Union Mutual fully participated, while the Philadelphia Mutual had withdrawn, and the Washington Mutual remained subject to the contingencies of the near future. At the close of 1852 the assets of the Union Mutual footed up \$430,122, of which \$167,887 were bills receivable. From March, 1844, to the close of 1852, certificates for dividend on earned premium and stock capital credit dividend had been issued to the amount of \$278,510. The earned premium of 1852—marine and inland risks—reached \$259,015.76. This sum, further increased by \$46,387.89 of interest earnings and other revenue, made a total of \$305,405.65, from which was to be deducted \$227,131.30 disbursed for losses, expenses, returned unearned premiums, reinsurances, and cash dividend on capital stock. To the earned premiums of the year entitled to dividend, and the capital stock, 25 per cent. of earned premium was allotted—so setting apart \$61,563.75 of the year's balance (78,274.35) for policyholders and stockholders—to be represented by scrip liable *pro rata* for losses. The rate of scrip dividend was the measure after deducting \$16,710.60 for interest payable in cash to holders of outstanding scrip. The directors now resolved to pay off the scrip issues of 1845, 1846, and 1847 (interest thereon ceasing from date), "out of the surplus, after having reserved three hundred thousand dollars, securely invested, as the capital of the company."

To meet an exigency attending the writing of risks at points beyond the jurisdiction of Pennsylvania, or rather to assert the liability in Pennsylvania of the company on such risks, the following declaratory enactment passed by the legislature of the State was approved April 15, 1853:—

SECTION 1. Be it enacted, etc., That the president and directors of the Union Mutual Insurance Company of Philadelphia be and they are hereby authorized and empowered to appoint agents or officers to effect insurance in any of the other States of the Union, or without its limits, and that contracts of insurance effected by such agents or officers shall



be as valid and binding as if the same were effected by the president and directors aforesaid in the State of Pennsylvania.

That is to say, policies so issued were to be as Pennsylvania contracts.

Shipments to California were contributing to the marine insurance revival. One shipment was attended with a somewhat novel insurance experience—novel at least as to the leading incident of it. A warehouse was burned, but the application of no fire policy was in question. A policy had been issued by the Mercantile Mutual, January 15, 1851, on 24 bales and 12 cases of fine high-priced dry goods, consisting of silks, satins, ribbons, gloves, etc., as cargo to San Francisco—agreed value \$24,657.80. The vessel sailed from Philadelphia, and arrived at her destination June 5, 1851, without encountering any violent storm, and the vessel was in good condition on her arrival, needing no repairs. The goods had been skilfully packed; some were enclosed, first, either by gutta-percha or oil-cloth, and then by heavy canvas. Two weeks after arrival at San Francisco the shipment was unloaded, and all but one package, marked 115, placed in the warehouse of a firm who were the consignees. One case, No. 135, containing silks and gloves, which had been sold to arrive, was opened soon after reaching the warehouse, and the contents were found to have been damaged, the gloves especially, having become spotted. The extent of depreciation in the value of the several contents was estimated to range from 35 to 70 per cent. It was stated that No. 115 had been unintentionally sent to a different warehouse. Two days afterwards the warehouse and all its contents were burned. No. 115 was then examined; the contents were of inferior grade to those of 135, and were pronounced slightly damaged. Claim was made for marine indemnity upon the whole dry goods shipment to the extent of injury discovered in respect to package No. 135, and payment was declined on the ground of non-liability. It was not an instance of proper vice, as the examined goods had not depreciated from inherent liability to injury; still even as to things “perishable in their own nature,” superinducing causes are coöperative to produce the rapid change. On the voyage, a few articles belonging to other owners had been damaged by drippings from codfish which had been stowed above them. All the rest of the vessel’s cargo belonging to other owners was unaffected during the passage. Suit was brought in Philadelphia (*Levy et al. vs. The Mercantile Mutual Insurance Company*). It was in evidence that the bales and cases had been well stowed and the dunnage satisfactorily arranged. Plates of boiler iron were laid, in the manner of shingles upon a roof, at the bottom of the vessel as high as the keelson. When unloaded there was no trace or stain of salt water in the hold, nor was there any rust or corrosion upon the iron. In the warehouse the packages were placed one upon another, and the store was cramped; witnesses testified that there were marks upon the boxes, as if stained by salt water. There was testimony as to silks and gloves being injured by dampness alone, without actual contact of water, gloves in particular being spotted by atmospheric dampness in places bordering on the sea. This would doubtless depend somewhat upon the treatment to which the original skin had been subjected, but more upon the coloring. Salt is used in softening the skin for gloves before drying. The jury gave a verdict



for the plaintiffs for \$10,218.27. Judge Stroud, District Court, in granting a new trial, said: "Injury from atmospheric dampness is excepted from the policy"; also, "the only allegation as to the cause of the damage is that it was done by sea water; yet, admitting this to have been the cause, if the water penetrated the vessel by reason of 'defective caulking, imperfect closing of the hatches, or neglect of pumping,' the insurer of the cargo is not responsible for this, but it must be borne by the master and owners of the vessel." Further, "there was no evidence on the trial to be submitted to the jury in regard to at least thirty-four of the thirty-six packages."

The marine writers had been, and were still receding from the large lines carried by their predecessors; reinsurances had thereby become numerous, and in the commercial activity which was prevailing, a portion of the risks taken by New York offices were reinsured in Philadelphia, and among local offices there was much interchange of this character with one another. The Philadelphia Mutual had left in contention a reinsurance liability to the Washington Mutual:

A policy had been issued, August 15, 1848, by the Washington Mutual to William Cummings for \$3,000 on the brig Delaware, A. Forsythe, master, lost or not lost, "at and from June 6th, 1848, at noon, for five calendar months, with use of the globe (Tampico and ports in Texas at all seasons excepted), and if at sea at the expiration of the time, the risk to continue at same rate of premium." On the same day, August 15, the brig being then at sea, having sailed from Rio, July 15, on voyage to Havana, the Philadelphia Mutual executed a policy to the Washington reinsuring \$1,500 on the same brig, "at and from Rio de Janeiro to Havana, and at and from thence to Philadelphia," subject to such risks, valuations, conditions, and modes of settlement, as are or may be assumed or adopted by them—for account of whom it may concern. The Delaware met with injury on her passage from St. Thomas to Havana, on or about August 30, and part of the cargo was thrown overboard to lighten the brig, after which she proceeded, reaching Havana, September 12. Other injury was sustained on the voyage to Philadelphia, at which place she arrived about January 27 or 28 following, having left Havana about January 9.

In the District Court the policy of the Washington was given in evidence that the company had an insurable interest, which was objected to, because the reinsurance was not co-extensive with the principal insurance—the former being under a time policy, the latter under a voyage policy. The verdict was for the plaintiff. First assignment of error was the admission of the Washington's policy.

In Error. Woodward, J.: . . . . . If an insurable interest can spring from a prior insurance, which, since the judgment in the celebrated case of *Lucena v. Crawford*, before the House of Lords, (3 Bos. & Pull., 75,) I believe has not been doubted, why not from a time policy as well as any other? In respect to the right of deviation and warranty of seaworthiness, and perhaps in other legal consequences, time policies differ from voyage policies; but for the single purpose of creating an insurable interest, I can see no reason and can find no authority for a distinction. . . . . As the interest of a first underwriter springs from his contract, and must be measured by the liability assumed, he can have no insurable interest beyond that. But because the greater contains the less, the whole the parts, he has an insurable interest in every portion of his risk, which by reinsurance he throws on another. This seems to be the sum of the whole matter, and hence it

follows that the policy of the defendants [in error] was properly admitted in evidence to establish their insurable interest, both when the reinsurance was made and when the loss occurred, and having shown such an interest, the plaintiffs were bound to indemnify to the extent of the terms of their contract.

Exception having been taken to the admission of the president of the Washington as a witness, the Supreme Court held: "There is not a shadow of ground for the objection to Riché. Though the president of the company, he was not a stockholder nor party to the record. Having no necessary interest in the event, he was competent, and his credibility was for the jury." (11 Harris, 250.)

The association of fire and marine risks was now an augmenting ratio as to insured property. With such associated policy issues, the fire risks annually written by the Insurance Company of North America were approaching in amount to the total of the annual marine risks written. The inland and ocean risks written by the Delaware Mutual exceeded in a greater degree the sum of the fire risks written, though the fire risks in force were always of greater amount than the other risks. For a short period Richard S. Newbold was secretary of the Delaware Mutual.\*

The Columbia Mutual had so far culled its fire business that with \$9,990.56 of fire premiums received in the year ended October 31, 1852, there were no fire losses; ("boiling down" the risks was the phrase used at the time to denote this kind of elimination); in the marine branch \$21,487.78 were received for marine premiums, and \$9,814.01 were paid for marine losses. In the same official year the Delaware Mutual received \$224,269.29 of premium on marine and inland risks, and \$118,016.69 as fire premiums; the marine and inland losses paid were \$125,094.20, the fire losses paid \$98,234.33. In the previous year the fire losses had exceeded the fire premiums. For the year ended October 31, 1852, the net earnings were \$74,422.12, deduced as follows:

Earned marine and inland premiums, . . .	\$224,151 79	Marine and inland losses paid, . . . . .	\$125,094 20
Earned fire premiums, . .	118,385 80	Fire losses paid, . . . .	98,234 33
Interest, salvage, etc., . .	23,975 66	Return premiums, . . .	23,221 16
		Reinsurances, . . . . .	10,512 47
		Agency charges and commission, . . . . .	21,337 07
		Expenses, salaries, rent, etc., . . . . .	13,691 90
	<hr/>		<hr/>
	\$366,513 25		\$292,091 13

Total assets, including \$100,000 of subscription notes, were \$519,769.13.

On the basis of the net earnings a 6 per cent. dividend was declared on the capital stock, and 6 per cent. interest on the outstanding scrip. Then a scrip dividend was further declared of 25 per cent. on the capital stock and earned premiums. Thomas C. Hand had been elected vice-president of the Delaware Mutual, October 9, 1850.

An act incorporating the Western Insurance Company had been approved April 14, 1851,—capital stock, 2,000 shares at \$50 each; authority conferred

\* Mr. Newbold was an energetic upholder of scrip issues as a subsidiary capital of an insurance company. He was at this period chairman of the committee on accounts of the Penn Mutual Life. He had been a member, at the organization of the Penn Mutual Life, of the committee to prepare the by-laws and the plan of business.



to begin operations with half of the charter shares subscribed and \$5 per share thereon paid in—stockholders individually liable for the debts of the company to amount of subscriptions unpaid on their stock. Then, by an act of May 3, 1852, mutual features were attached, and organization under the charter was begun January 3, 1853. William B. Norris was elected president, Charles S. Boker vice-president, John L. Goddard secretary. With a charter of date of April 18, 1853, there was quicker organization under the title Independent Mutual Insurance Company, which, like the Western, had “the powers of the Mercantile Mutual Insurance Company,”—letters patent to be issued as soon as \$100,000 of insurance should be applied for. “Whenever the accumulated profits shall exceed \$1,000,000, the excess may be appropriated from year to year to redeeming each year’s certificates respectively,” etc.; and, May 16, John H. Diehl was chosen president, and George F. Thomas secretary. With a charter of two days’ later date, the Commercial Mutual began with the opening of books for subscription on the charter capital of \$100,000; and, May 25, Clement S. Rutter was elected president, John M. Coleman vice-president, and John McCollum secretary—the last named previously of the discontinued City and County Mutual. Again “books for subscription” appeared. This time it was the Merchants’ Fire and Marine Insurance Company which was to be put in motion, with a capital in the charter of \$500,000, and \$12,500 cash were required to be paid in before letters patent would be issued. In the charter the proposed corporation was for insurance purposes; in the opinion of some people the object was to provide position for one or two politicians out of office, but a directory composed of twenty-four well-known and reputable business men was elected; the directors elected a president, disagreed in the choice of secretary, and upon one being elected the minority of the directors withdrew, and the Merchants’ Fire and Marine had the excellent merit of fizzling out early.

An insurance office appeared this May entitled the Girard Fire and Marine Insurance Company—president, Joel Jones; vice-president, Robert B. Walker; secretary, Alfred S. Gillett; assistant secretary, H. R. Coggshall. Date of the charter was March 26. The Girard was incorporated with “an authorized capital of \$300,000” as a maximum; it had—Alfred S. Gillett, its secretary, as founder, and thereby it was not an organized failure. He knew the work, and was of the working. An insurance company is a product of years of labor; it is built as a building, part upon part, and the putting together may be weakness or may be strength. The Girard was not mutual; further, while there was a cry for more companies as tending to make cheaper insurance, the declaration of this new company was “such rates as will insure the public the indemnity sought in their policies will in all cases be charged by this company.”

As a new element in the marine-fire competition, there was further added the Philadelphia agency of the Franklin Marine and Fire Insurance Company of New York; Wm. F. Dean and John L. Linton, agents,—scrip issued for profits on marine business, or discount on rates in lieu of scrip. The Franklin was authorized to do business in the city and county. At Gillett & Coggshall’s agency were the Hudson River, of New York, and the State Mutual Fire and



Marine, of Harrisburg, Pa.; the latter doing a miscellaneous navigation business, river and coast, and had a good share of the guano imports—a new risk.

The catalogue of fire-marine companies kept on lengthening, and increase of quantity was not likely to be an improvement in quality.

A supplement was added at the legislative session of 1854 to the charter of the Northwestern Mutual, approved March 11, 1853, and the Northwestern Insurance Company appeared in the summer of 1854; H. Caldwell, president, O. H. Irish, secretary. It received premiums on "fire, marine and inland transportation risks," and there were "assets liable for the losses of the company—\$253,000." The Anthracite had been incorporated February 17, 1854, and the Hope Mutual ten days later; both were organized in 1854. Of the Anthracite, D. Luther was president and William F. Dean secretary. There was a good representation of the coal-shipping trade of the city in the directory of the Anthracite. Gilbert S. Parker was president and Charles P. Massey secretary of the Hope Mutual. Then, as a revival, came the Merchants' Insurance Company, incorporated in 1853, capital \$400,000—all subscribed; John C. Montgomery, president, D. J. McCann, secretary. The Keystone Insurance Company had also come; P. M. Moriarty, of the National Protection, of Saratoga, N. Y., was president, and Morris Thompson secretary. The Keystone was prepared "to effect fire and marine insurance on as favorable terms as any other good city company." "Keystone" was the *alias* of "Erie," with earlier New York antecedents. Erie charter, April 15, 1834, made Keystone, March 18, 1854. The agencies also kept on coming; all of them were not counted. The Springfield Fire and Marine was on hand—J. M. Wright, agent. "Marine" was added to the fire title of the Granite, of New York. The Provincial, of Canada, had \$2,000,000 of capital in the parliamentary act incorporating it, and a branch office at Third and Chestnut streets—James Crawford, agent. The *Ætna*, of Utica, N. Y., was another competitor.

No one asked what was to be done with these fire-marine acquisitions, and as yet the public gave no sound or sign of alarm. To the contrary, the halcyon period was coming of the cheapest kind of insurance.

The Atlantic Mutual, incorporated April 4, 1854, was organized for operation early in 1855; John L. Linton, president, William B. Parker, secretary. April 26, 1855, the Merchants and Mechanics' Mutual Insurance Company was started, under a charter of date of April 2, 1853; Henry L. Stevenson, president, H. K. Richardson, secretary.

The meaning of the augmentation began to be apprehended. A city journal made this note of the situation: "During the last two or three years the number of insurance companies in our State has increased to a frightful extent—in fact, so fast that, like the animalcula in a drop of water, they are obliged to eat each other up, to make room for the wished-for expansion of business." But the increase did not stop; policies were issued, and rather numerous, and statements of condition were not omitted—and the latter had figures in them.

In the Board of Marine Underwriters an effort was made to bring something of order out of the confusion, in respect to the marine writing. The following companies were now represented in this board:—

Insurance Co. of North America,	Columbia Mutual Insurance Co.,
Insurance Co. of the State of Penn'a,	Mercantile Mutual Insurance Co.,
Union Mutual Insurance Co.,	Philadelphia Insurance Co.,
Phoenix Mutual Insurance Co.,	Western Insurance Co.,
American Mutual Insurance Co.,	Independent Mutual Insurance Co.,
Delaware Mutual Insurance Co.,	Commercial Mutual Insurance Co.,
Washington Mutual Insurance Co.,	Anthracite Insurance Co.

A tariff was essayed, and the series of rates, as adopted, was printed. The penalty assigned for accepting risks at less rates than the tariff prescribed was forfeiture of such deficient premiums, which premiums were to be applied to the payment of the general expenses of the board. But the utter demoralization prevailing at the period made such an attempt not only futile, but seemingly ridiculous. Members of the board were charged with cutting rates, and whatever character and good faith might be in the board, the board was feeble before the audacity and aggression which held sway outside of it. The tariff was soon abolished—all the copies, out of the fifty printed, were called in, and the whole burned. No record or trace of the tariff is discoverable—all is lost in the complete obliteration.

The starting of fire-marine companies in the city in 1855, or the opening of such local offices, was more of the business in vogue than the opening of city agencies, and for a brief period the latter somewhat diminished. The *Ætna*, of Utica, N. Y., named as competing for Philadelphia risks, did not compete long, for the reason that it passed into the hands of a receiver in January, 1854. A receiver was appointed for the Franklin\* Marine and Fire, of New York, in August of the same year, and for the Hudson River in September following. The Insurance Company of the Valley of Virginia, marine and fire, was, however, added to the Philadelphia agency list in the summer of 1854; Wm. D. Sherrerd, agent.

Largely the new local offices would have to depend upon agencies for whatever chance of existence they might have, and this made a distinction between the new offices, and the old ones withdrawing their agencies and entertaining the opinion that the agency method was better for the agent than the company. Still, agencies could be successfully established—especially with increased facilities for communication—if the company could establish greater control over the agent, and the recognition of the agent as a growing factor in the business had been indicated by the Insurance Company of North America securing, February 27, 1854, a declaratory act similar to that of the Union Mutual, giving authority to the company to appoint “agents or officers to effect insurances in any of the other States of the Union, or without its limits,” and describing contracts of insurance so effected as being “as valid and binding

\* This company's annual statement for date of January 1, 1854, exhibited:—

Premiums (fire, marine, inland,) . . . . .	\$285,753 35
Losses and expenses, . . . . .	165,659 97
Total assets, . . . . .	\$380,120 78

as if the same were effected by the president and directors in the State of Pennsylvania."

For year ended May 31, 1854, the Independent Mutual received \$171,704.35 for marine and fire premiums, and paid for losses and expenses \$101,121.66.

The Exchange Mutual Insurance Company was incorporated March 16, 1855, and the Exchange Insurance Company for fire, inland and marine insurance, began business in May; president John M. Hale, treasurer J. M. Pumroy, secretary E. P. Hinds. In June the Merchants and Mechanics'—J. D. George, president, J. R. Rue, vice-president, R. O. Lowry, secretary—was ready to issue policies. This Merchants and Mechanics' had a charter of date of March 9, 1855, which was a change from a previously unused act incorporating the Building Association Fire Insurance Company, approved May 1, 1852. The Merchants and Mechanics' was in the field before the Merchants and Mechanics' Mutual—the latter, though "organized on the 26th of April," did not issue policies before August. The Manufacturers' Insurance Company was produced in August—date of charter, April 30; Aaron S. Lippincott, president, Orrin Rogers, secretary, George Young, treasurer. Previous to this, in July, a gold-lettered sign at the northwest corner of Walnut and Second streets had announced the readiness for business of the Farmers and Mechanics' Fire, Marine and Life Insurance Company, which had been incorporated April 17; president, Thomas B. Florence; secretary, Edward R. Helmbold.

For year ended November 30, 1855, the treasurer of Philadelphia county paid into the State treasury \$2,800 as the taxes received under the act of January 24, 1849, from "foreign" (non-State) companies licensed to do business in Philadelphia—one cent per dollar of the specified receipts of the life agencies, and three cents per dollar of the receipts of the other classes of insurance agencies.

At this period the Philadelphia insurance situation was described by a respectable Philadelphia daily journal, the *North American*, in the following terms, as it called upon the public to investigate before accepting policies:—

Many persons have taken up Insuring lately as a make shift, not having been able to get along at anything else. Such parties get the privilege of doing business for [in the name of] some company of very slender qualifications, indeed for the most part entirely destitute of capital, which they crack up as a most magnificent affair, but which, if parties will take the trouble of investigating, will be found to be perfectly baseless. In order to guard against such impositions, we would enjoin upon our friends, when seeking for insurance,

- 1st To ascertain the amount of capital paid into the concern and invested.
- 2d. The character of those investments.
- 3d. The names of the parties comprising the management of the company, and particularly the competency of its officers for the business.
- 4th. The character of the business which the company is doing.

There will be no difficulty in the way of such investigations when the companies are really legitimate; and, as a general rule, wherever there is a difficulty in ascertaining any of the above points, there danger exists, and such company should be avoided.

As to the fourth of this series of inquiries—essentially the most important—only a professional expert could arrive at any valid judgment. The last paragraph was an over-estimate of the ability of the individual citizen to



penetrate to the sources of information. There were, besides, exceptions to the general rule stated, in companies long established, which were more numerous, as to such companies, than the instances to which the rule would apply. Old corporations, free from the "danger," preferred in their affairs that privacy in business matters which the personal citizen affects to be his inalienable right, until the State, for the purpose of taxation, or the law, in its execution, decides otherwise. It required the inquisition of the State to probe to the inmost recesses, and such inquisition would as often fail as succeed—the competency of the State inquisitor would be, as a rule, more than doubtful—and the State had shown no qualification to legislate according to the requirements of the insurance economy. Even where management was honest in purpose, and fair business judgment prevailed in the conduct of affairs, the position of the company was not always comprehended by the managers themselves, and collapse sometimes came to them as a surprise. Still, the State could come to the aid of the personal citizen, by securing data which would contribute towards an approximately correct judgment, and gross frauds could be revealed by it. The *character* of a corporation, as distinguished from or in accord with its *reputation*, a somewhat indefinite, yet potent combination of conditions, was further within the reach of State examination, and such character was a fair ground for confidence or distrust.

The Northwestern had disappeared.

Tuckett's Monthly Insurance Journal, now (November, 1855) owned and conducted by William Hadden, in commenting upon the "arrant swindles" in New York which had been exposed, indulged in this congratulation: "Happily, so far as Philadelphia is concerned, we are not called upon to record any disgrace." Comptroller James M. Cook, of New York, with William Barnes as examining commissioner, was pursuing a line of investigation which resulted in the disclosure and dissolution of fraudulent companies. Pennsylvania did not investigate, and some New York "bogus" operators, restrained in New York, found Pennsylvania available for their purposes. There were plenty of "mortgages," last in number of a series of such liens on buildings, or first liens worth as much, and as many like unrecorded instruments on possible lands, to make up any number of millions of insurance assets. All other classes of investments could be similarly represented. The furnishing of such "securities" had become a business.

This advertisement appeared in December, in the monthly forenamed, and it indicates that trade was lively:—

INSURANCE CHARTER WANTED.—Wanted to treat for the purchase of a charter of the State of Pennsylvania or of New Jersey, for a Fire and Marine Insurance Company. Parties interested will please forward particulars during this month, addressed to "Capital," Box 1032, Post Office, Philadelphia.

The Merchants and Mechanics' and the Merchants and Mechanics' Mutual battled as to right to exclusive use of the one title. Neither expressed any admiration of the other. The Merchants and Mechanics' saw itself discredited and the other benefited by the other using *its* title. The Mutual looked around in vain for any benefit it had received from the other's "character and

credit," and the Mutual resolved to change its name, "regardless of expense," and on application to the Court of Quarter Sessions the name was changed.\*

So, early in 1856, the Merchants and Mechanics' Mutual was decked with the title The Importers and Traders' Insurance Company of Philadelphia, William F. Boone president, Percival M. Potts secretary, and this statement for February appeared:—

Authorized capital, . . . . .		\$500,000
<i>Assets.</i>		
Bonds and mortgages and real estate, . . . . .		\$179,200 00
Bonds and mortgages held as collateral, . . . . .	\$25,000	
Bills receivable, . . . . .		13,308 50
Due from agents, . . . . .		3,377 76
Interest due, . . . . .		4,051 00
Sundries, . . . . .		650 00
Loans on call, secured, . . . . .		6,500 00
Cash on hand, . . . . .		1,986 52
		<u>\$209,073 78</u>
<i>Liabilities.</i>		
Bills payable, . . . . .		\$4,809 32
Losses in process of adjustment, . . . . .		7,435 00
		<u>\$12,244 32</u>

The Keystone produced its first annual report. It had, January, 1856, "total assets liable for losses, \$219,420." Receipts for premium in 1855 were "\$112,812.05"; paid for losses and expenses, "\$78,134.04." In the asset account marine notes and short loans were "\$36,943.70." There appear to have been in force June 1, 1855, marine risks \$201,413, fire risks \$1,678,855.

With fair purpose the Hope Mutual was making its way, and partly avoiding, by predominance of fire business, the thickening difficulties of the marine situation; it had the common escape of the new office from share of normal loss in the earliest months. This company, burdened with a note guarantee capital, made public the following truthful statement of its affairs:—

HOPE MUTUAL INSURANCE COMPANY OF PHILADELPHIA.

*Statement of the Business of the Company to January 1, 1856.*

Amount of fire premiums received, . . . . .	\$10,494 99
" " marine premiums received, . . . . .	5,977 25
	<u>\$16,472 24</u>
Expenses, rent, salaries, advertising, . . . . .	\$6,809 80
Reinsurances, . . . . .	130 00
Fire losses, . . . . .	126 66
Commission account, . . . . .	378 83
Return premiums, . . . . .	688 35
Interest account, . . . . .	2,655 72
	<u>10,789 26</u>
Balance, . . . . .	\$5,682 98

\* By the act of April 4, 1853, Sec. 3, the Courts of Quarter Sessions were empowered to change the name, style and title of any corporation within their respective counties. And by the act of May 8, 1854, Sec. 1, "where charters of incorporation have been granted by the legislature, for a purpose where authority to grant charters is or may be vested in the courts, it shall be lawful for such courts to alter, amend and improve the same upon like proceedings, and with like effect, as if the original charter had been granted by the court."

*Assets*

City of Philadelphia R. R. loan, . . . . .	\$12,000 00
Schuylkill Navigation Co., first mortgage loan, '72, . . . . .	1,500 00
Cash, . . . . .	2,245 32
Bills receivable, . . . . .	53,253 50
Office furniture, . . . . .	1,055 00
Stock notes, not yet due, . . . . .	33,772 49
Subscription notes, . . . . .	50,000 00
	<hr/>
	\$153,826 31

February 26, 1856, "the president, vice-president and directors of the Great Western Fire and Marine Insurance Company, established in Philadelphia under a charter from the legislature of Pennsylvania, are anxious to exhibit the advantages they are enabled to offer, and all other arrangements derived from close study, calculations and experience which they have made, to enable them to transact business under the most auspicious circumstances both for insurers and insured." The capital of the company was "limited to \$500,000." As to the fire branch of the business, it was to be under very effective insuring and assuring regulations. Only the "metropolitan office" was to be in Philadelphia, but no agent was to be appointed "for any town, city or county, who is not also a stockholder." Owing to the "personal connections of the directors," the "prospect of extensive insurance in other States" was "very flattering." C. C. Lathrop, who had been an agent at New Orleans, was the chief organizer. The official list was. Thomas Rawlings, president; C. Coan Lathrop, vice-president; Thomas K. Limerick, secretary; W. W. Dean, actuary. There was a supplement, approved in April, 1855, to an act incorporating the Meadville Western and Mutual Insurance Company, changing the name to the Great Western Insurance Company. Later the act to incorporate the Lafayette Mutual Insurance Company of Philadelphia, approved April 26, 1855, underwent a change as to title, and the Lafayette "company originally chartered" as aforesaid, was changed by the Court of Quarter Sessions to the Great Western Insurance and Trust Company; but as yet the appellation Great Western Fire and Marine was in use.

The Girard Fire and Marine had issued, July 18, 1853, a policy for \$5,000 on the iron-hull stern-wheel steamboat Governor Morehead, for trip from Philadelphia to Port Washington, North Carolina. This steamer was built in Philadelphia to run on Tar river, N. C. July 23 the vessel started for her destination, to go altogether by steam, as she had no sails. At some distance down the Delaware it was found impossible to make sufficient steam to continue the trip, the furnace ceasing to draw. The Governor Morehead was brought back to the city, and she sank in port on the night of her return. After being raised and repaired, another effort was made to make Port Washington, which also failed. The third trial succeeded. Claim was made for \$5,000 for damages resulting from the sinking of the vessel, and suit instituted; defence, unseaworthiness. (*Myers vs. Girard Insurance Company*). In the District Court the plaintiff was non-suited, the judge declaring that "the undisputed evidence in the cause is, that without encountering the slightest storm in a single day's run, in perfectly fair weather, and on the comparatively



smooth current of the Delaware river, the boat—which had no sails, and was to be propelled solely by steam—was, from the imperfection of her works, unable to make steam answer, and from this cause was compelled to return to the port from which she had set out.” The case being reviewed on writ of error, the plaintiff contended that the implied warranty of seaworthiness was waived by the insurance company, and that even if it were not, to determine whether the boat was seaworthy or not, was a question for the jury.

Knox, J.: . . . . . The implied warranty is not confined to the sufficiency of the hull, but in a sailing vessel extends to the soundness of the sails and rigging (*Wedderburn et al. vs. Bell*, 1 Camp., 1); and as was said by Lord Eldon in the House of Lords, in the case of *Wilkie vs. Geddes* (3 Dow., 57): “The ship must be furnished with ground tackling sufficient to encounter the ordinary perils of the sea, and where anchors are defective, the ship is not seaworthy.” This principle, in its application to steam vessels, requires not only that the hull should be tight, staunch and strong, but that the machinery should be properly constructed, and of sufficient power to perform the voyage insured. . . . . “It seems not to have been doubted that when a ship which has not been disabled on her voyage by an accident or stress of weather, is found unable to reach her place of destination, there is presumption that she was unseaworthy, which it is incumbent on the assured to disprove.” (*Fleming vs. The Marine Insurance Company*, 3 Watts & Sergeant, 153.) . . . . .

We see no evidence from which an inference could be drawn that the insurance was to stand good without reference to the ability of the steamboat to make the trip. It may be conceded that the insurance company knew that the boat was built for the river trade, and that it had been examined by the agent of the company before the insurance, but a waiver of the implied warranty of seaworthiness for the particular voyage insured does not follow from either of these circumstances, or both combined. . . . . A mere statement that the vessel is intended for a particular trade, although that trade may be less hazardous than the voyage insured, will not cast the risk of seaworthiness upon the insurer; nor does it follow from an examination, that defects in the machinery of a steamboat were discovered and considered in the contract of insurance.

Seaworthiness is a question of fact, to be determined by a jury. The presumption is in favor of the seaworthiness of the vessel, and the burden of proof is upon the party alleging the absence of it. This presumption, however, may be rebutted, and the *onus probandi* shifted by satisfactory evidence that the vessel is unable satisfactorily to make the voyage, where such inability does not arise from the character of the weather, or from any human cause sufficient to account for the failure, other than the condition of the vessel at the time when the voyage was attempted. (2 Casey, 192.)

Marine policies, as multiplying companies devised expedients rather than followed precedents, had become of diverse phraseologies, and terms applicable to one purpose were involved confusedly with terms having different applications.\* In the open policy, premium, vessel, etc., could be left “open,” as well as the value.

\* The following are two policies with valuation, issued by the State Mutual Fire and Marine Insurance Company of Harrisburg, through its Baltimore agency—

STATE MUTUAL FIRE AND MARINE INSURANCE COMPANY OF PENNSYLVANIA.			
No. 71.	On account of <i>B. &amp; W. P. Stm. Packet Company</i> . Loss payable to <i>W. R. S.</i>		Vessel.
SUM INSURED.	This Policy of Insurance witnesseth, That The State Mutual Fire and Marine Insurance Company, by these Presents, Do cause the <i>Steamer Gladiator</i> to be insured in the sum of		
\$8000.	<i>Eight thousand Dollars</i> , lost or not lost, at and from the <i>Twentieth day of January, 1855</i> , at noon, until the <i>Twentieth day of January, 1856</i> , at noon. To be employed on the waters of the <i>Chesapeake Bay and its tributaries</i> . It is understood that this Company is not liable for any derangement or for any breakage of the Machinery or Boilers bursting, but if the Vessel take Fire, or any part of the Machinery or Boilers be damaged thereby, the Company is liable therefor. It is also understood that the Company is not liable for Fuel, Wages or Provisions, nor expenses of any delay in consequence of any repairs of any kind, whereof — is at present master, or whosoever else shall be master. Beginning the adventure upon the said <i>Steamer, Hull, Tackle, Furniture, and appurtenances</i> , and to continue and endure for <i>Twelve calendar months</i> , as aforesaid.		
	And it shall be lawful for the said boat or vessel, during said time, to proceed and sail to, touch and stay at, any ports, or places, which may be convenient for the transaction of		

The Board of Marine Underwriters shared in the activity which marked the marine practice at this period. At a meeting of the board held February 8, 1856, the following preamble and resolutions were adopted, relative to ice blockades of the Delaware:—

WHEREAS, The free navigation of the Delaware river and bay during the winter months is most essential to the commercial and trading interests of the city, and whereas it is apparent that the present power engaged in that object is insufficient for that purpose: therefore

business, or if thereunto obliged by stress of weather, or other unavoidable accidents; also at the usual landings for wood and refreshments, and for discharging freight and passengers, without prejudice to this insurance. And in case of any loss or misfortune resulting from any peril insured against, the party insured engages for himself or themselves, his or their factors, servants or assigns, to sue, labor, travel for and use all reasonable and proper means for the security, preservation, relief and recovery of the property insured, or any part thereof; to the charges whereof, the said Company engages to contribute in proportion as the sum insured bears to the whole sum at risk; and the acts of the Assured or Assurers, or of their joint or respective Agents, in preserving, securing, or saving the property insured, in case of danger or disaster, shall not be considered or held to be a waiver or acceptance of abandonment. VALUATION.  
\$40,000. The Company having been paid the consideration for this insurance, at the rate of *Eight per cent.* The said boat hereby insured being valued at *Forty thousand Dollars.*

Touching the adventures and perils which the said Insurance Company is contented to bear and take upon them under this Policy, they are, of the Seas, Lakes, Rivers, Fires, Enemies, Pirates, Assailing Thieves, and all such losses and misfortunes which shall come to the hurt, detriment or damage of the said *Steamer Gladiator*, according to the true intent and meaning in this Policy.

And in case of loss, such loss to be paid in ninety days after proof of loss, proof of interest, and adjustment exhibited to the Assurers; the amount of the premium, or the note given for the premium, if unpaid, and all sums due from the Assured to the Company when such loss becomes due, being first deducted, and all sums coming due being first paid or secured to the satisfaction of the Assurers. But no loss or average shall in any case be paid under *five per cent.* on the agreed value in this Policy, unless general.

And it is hereby agreed, that this Policy shall become void, if any further insurance has been, or hereafter shall be made on said *Steamer*, which, together with this insurance, shall exceed the sum of *Twenty thousand Dollars*, or upon any assignment thereof, unless notice is given at the office of the Company, and the same be approved and endorsed hereon by the Secretary or authorized officer of the Company.

In all cases of return premium, a deduction shall only be made on the whole months of unexpired time; and one-half per cent. upon the sum insured is to be retained by the PREMIUM.  
\$640 Assurers. And whenever this Company shall pay any loss, the Assured agrees to assign over POLICY.  
\$640 all his right to recover satisfaction therefor, from any other person or persons, town or other corporation, or to prosecute therefor at the charge and for account of the Company, if requested. And the said Company shall be entitled to such proportion of said damages recovered, as the amount insured by them bears to the valuation of said boat.

It is also agreed, that should the said boat or vessel change master, the assurers shall have the privilege of ending the risk, if they so elect, by returning a pro rata premium for the unexpired time.

It is agreed, that the assured shall not abandon, as for a total loss, on account of the said boat or vessel grounding, or being otherwise detained, or in consequence of any loss or damage, unless the injury sustained be equivalent to fifty per centum on the agreed value in this Policy; and the assured also agrees, that the *Steamer* aforesaid is and shall be, at all times during the continuance of this Policy, tight and sound, and her seams properly caulked, and sufficiently found in tackle and appurtenances thereto, and competently provided with master, officers and crew, and in all other things and means necessary for the safe navigation thereof; and that whenever said boat or vessel shall be under headway, or be moored, in the night time, she shall show one or more lights in a conspicuous place, so as to warn and give notice to approaching boats and vessels. And it is also agreed, in case of injury or accident, the officers and crew shall not leave the boat or vessel until the decision of the assurers in case of abandonment shall be known.

No allowance will be made for *Wages* or *Provisions* paid or furnished to officers or crew while the boat is detained by any accident, or while undergoing repairs, except for the time they are actually employed for the safety of the boat and cargo, for which time they will be included in the general average account.

It is further agreed, that in all cases of loss or damage, the assured shall furnish to the said Company the proofs of the same, within thirty days from the date thereof; and all claims under this policy shall be barred, unless prosecuted within one year from the same date; and no loss shall be paid, unless the assured shall give immediate notice, in case of accident or loss, to this Company.

The Cargo will be required to bear its proportion or share of the expenses incurred for the common benefit, including the expense of raising and pumping out the boat, getting out cargo, and taking the boat to the nearest place where the necessary repairs can be made—making a general average of the whole, for which the boat will have to contribute only her



*Resolved*, That a committee of five be appointed to consider, and if deemed advisable, to adopt the necessary measures to organize a company under the act of incorporation now in the possession of this Board.

*Resolved*, That the committee above appointed be directed to confer and coöperate with any other committee that may be appointed by our citizens, the Board of Trade, or any other organized body.

*Resolved*, That a copy of the above preamble and resolutions be presented to the Board of Trade, with a request that the Board will coöperate in the proposed enterprise.

share in proportion to her value, for which share the Company will be liable without regard to percentage.

And it is further agreed, that one-third shall be deducted from the cost of all repairs of injuries and losses on the vessel by the perils insured against, (except on anchors and copper,) as a commutation for the average difference between new and old, the remains of all articles replaced being considered as salvage, and accordingly deducted from the net loss.

It is also agreed between the parties, that this Insurance Company shall not be liable for any loss or damage arising from or occasioned by the said boat or vessel being unduly laden, during the continuance of this Policy. Neither shall said Company be liable for any loss or damage arising from or occasioned by the bursting of boilers, the collapsing of flues, or the derangement or the breaking of the engine or machinery, or any consequences resulting therefrom, unless the same be caused by unavoidable external violence.

Warranted by the assured free from any charge, damage or loss, which may arise in consequence of engaging or having been engaged, in illicit or prohibited trade at any time whatsoever.

IN WITNESS WHEREOF, The President of the said State Mutual Fire and Marine Insurance Company hath hereunto subscribed his name and caused the same to be attested by their Secretary, in Harrisburg, Penn'a, the *Twentieth* day of *January*, one thousand eight hundred and fifty-five. But the same shall not be valid until countersigned by *A. C. Rhodes, at Baltimore, Maryland.*

J. P. RUTHERFORD, President.

A. J. GILLETT, Secretary.

A. C. RHODES, Agent.

BY THE STATE MUTUAL FIRE AND MARINE INSURANCE COMPANY OF PENNSYLVANIA.

Freight.

No. 82.

*T. S., on account of whom it may concern.*

In case of loss to be paid to

Do ——— make insurance, and cause ——— to be insured, lost or not lost, at and from *Norfolk, Va., to and at Cardenas, and at and from thence back to an Atlantic Port in the United States. Policy proof of interest. If laden on board a vessel of a belligerent nation, warranted free from loss or expense arising from capture, seizure or detention, or the consequences of any attempt thereat; or if by a neutral vessel, warranted not to abandon in case of capture, seizure or detention, until after condemnation of the property insured, nor until (90) ninety days after notice of said condemnation is given to the Company, also warranted not to abandon in case of blockade, and free from any expense in consequence of capture, seizure, detention or blockade, but in the event of blockade to be at liberty to proceed to an open port, and there end the voyage; any stipulation in this policy to the contrary notwithstanding, upon the freight of all kinds of lawful goods and merchandises, laden or to be laden on board of the good Schooner *Miranda*, whereof is master for this present voyage, ——— or whoever else shall go for master in the said vessel, or by whatever other name or names the said vessel, or the master thereof, is or shall be named or called.*

SUM INSURED.

\$500

Beginning the adventure upon the said freight from and immediately following the loading thereof on board of the said vessel at ——— as aforesaid, and so shall continue and endure until the said goods and merchandises shall be safely landed at ——— as aforesaid. And it shall and may be lawful for the said vessel, in her voyage, to proceed and sail to, touch and stay at, any ports or places if thereunto obliged by stress of weather, or other unavoidable accident, without prejudice to this insurance. The said freight hereby insured, is valued at *sum insured.*

Touching the adventures and perils which the said State Mutual Fire and Marine Insurance Company is contented to bear, and takes upon itself in this voyage, they are of the seas, men-of-war, fires, enemies, pirates, rovers, thieves, jettisons, letters of mart and counter-mart, surprisals, takings at sea, arrests, restraints, and detainerments of all kings, princes or people, of what nation, condition, or quality soever, barratry of the master and mariners, and all other perils, losses, and misfortunes, whereby the said freight, or any part thereof, shall be lost. And in case of any loss or misfortune, it shall be lawful and necessary to and for the assured, ——— factors, servants and assigns, to sue, labor and travel for, in and about the defence, safeguard, and recovery of the said goods and merchandises, or any part thereof, without prejudice to this insurance; nor shall the acts of the insured or insurers, in recovering, saving, and preserving the property insured, in case of disaster, be considered a waiver or an acceptance of an abandonment; to the charges whereof, the said Insurance Company will contribute according to the rate and quantity of the sum herein insured; as far forth as the said freight will be liable for the same; having been paid the consideration for this insurance, by the assured, or by assigns, at and after the rate of *Three and one-half per cent.*




Messrs. Diehl, Coffin, George, Thomas and Hand were appointed the committee under the first resolution.\*

The following Rules for Grading and Reporting Vessels were adopted by the board, April 1, 1856:—

Vessels of the following description to be considered of the FIRST CLASS, and will be Graded and Reported A1 for Ten Years: (provided always, that no vessel having Lumber Ports in the Bow shall be graded A1.)

When built of good White Oak Timber, of size and length proportionate to their tonnage, and have the planking of the bottom, bends, and ceiling, also of the same wood, of sufficient thickness, and to be well secured with Locust treenails, and copper fastened up to the bends the butt bolts and treenails to be driven through the bottom and secured on the ceiling planks, in the hold of the vessel by rivetting, &c. The deck frame secured by White Oak lodging and hanging or diagonal knees to every beam.

 *For the Upper Deck.* Hackmatac hanging or diagonal knees may be substituted for White Oak. The deck beams to be of Yellow Pine, and the deck clamps of the same wood, if of suitable thickness, the planking of the decks of Yellow or White Pine.

Vessels of the following description to be Graded and Reported *First Class*, rating A1 for six Years, viz.:

When possessing all the requisites of a Vessel of the First description of the First Class, except that the bottom or bends, or both, are planked with hard Pine. The surveyors to note in their report of such vessels that they have Pine bottoms or bends, or both. Vessels of this description to rate A1 for six Years, if kept in efficient repair, unless injured by getting ashore, and at the expiration of this period to have such grade assigned to them as the Surveyors may after a careful examination determine.

Vessels of the following description to be Graded and Reported *Second Class*, rated A1½ for Two Years, viz.:

Vessels that have passed the prescribed age of a First Class Vessel, and shall appear upon careful survey to be still in a sound and efficient condition.

**PREMIUM.** And in case of loss, such loss to be paid in sixty days after proof of loss, and proof of \$17.50 interest in the said — (the amount of the Note given for the premium, if unpaid, being **POLICY.** 1.00 first deducted,) but no partial loss or particular average shall in any case be paid, unless amounting to five per cent. Provided always, and it is hereby further agreed, that if the said \$18.50 assured shall have made any other assurance upon the premises aforesaid, prior in date to this policy, then the said State Mutual Fire and Marine Insurance Company shall be answerable only for so much as the amount of such prior assurance may be deficient towards fully covering the premises hereby assured; and the said State Mutual Fire and Marine Insurance Company shall return the premium upon so much of the sum by them assured, as they shall be by such prior assurance exonerated from. And in case of any insurance upon the said premises, subsequent in date to this Policy, the said State Mutual Fire and Marine Insurance Company shall nevertheless be answerable for the full extent of the sum by them subscribed hereto, without right to claim contribution from such subsequent assurers, and shall accordingly be entitled to retain the premium by them received, in the same manner as if no such subsequent assurance had been made. It is also agreed, that the property be warranted by the assured free from any charge, damage or loss, which may arise in consequence of a seizure or detention, for or on account of any illicit or prohibited trade, or any trade in articles contraband of war. And lastly, it is agreed, that if the above vessel, upon a regular survey, should thereby be declared unseaworthy, by reason of her being unsound or rotten, or incapable of prosecuting her voyage on account of her being unsound or rotten, then the assurers shall not be bound to pay their subscription on this Policy.

IN WITNESS WHEREOF, the President of the said State Mutual Fire and Marine Insurance Company hath hereunto subscribed his name and caused the same to be attested by their Secretary, in the city of Harrisburg, Pennsylvania; but this policy shall not be binding until countersigned by the Agents for the Company at the City of *Baltimore*.

If the voyage aforesaid shall have been begun, and shall have terminated before the date of this Policy, then there shall be no return of premium on account of such termination of the voyage.

In all cases of return of premium, in whole or in part, one-half per cent. upon the sum insured, is to be retained by the assurers.

\$500. *Five hundred dollars*

J. P. RUTHERFORD, President.

Attested:

A. J. GILLET, Secretary.

Countersigned at *Baltimore*, this 19th day of *February*, 1855.

A. C. RHODES, Agent.

\* Ice-breaking boats were necessarily a development of steam-power. The first ice boat on the Delaware began operations in December, 1837.

*Rate A1½*, will also be assigned to all vessels that from the quality of the timber, plank fastenings, &c., used in their construction approximate to a vessel of the first description of the First Class, but owing to partial deficiencies cannot be assigned a grade in that class. Said partial deficiencies consist of an admixture of Hackmatac, Birch, Beech, Rock Maple, or other wood of similar quality, with a frame, principally White Oak, partial copper fastenings, a partial want of hanging or diagonal knees, or where such knees are all Hackmatac or other wood than White Oak.

Single decked vessels possessing all the requisites of a First Class Vessel, except being without partner beams in the hold, when the depth of the same shall exceed 11½ feet will also, with those coming within the above description, rate *A1½* for the period of *Eight Years* from the date of their construction, if kept in a state of efficient repair, but will be transferred to a lower grade, should this be omitted.

*Rate A1½* will also be assigned to vessels built of the best materials. Should treenail or other sufficient fastenings through the bottom planks, timbers and ceiling in the hold be omitted, vessels of this description shall be classed *A1½* for the term of Five Years from the date of their construction, and at the expiration of that time be reduced in grade, if on examination by the Surveyors it shall appear necessary from weakness or other causes. The surveyors to note in their report of such vessel, that the treenail or other fastenings are not through the bottom.

Vessels of the following description to be Graded and Reported *A2*:

All vessels which have passed the prescribed age assigned to Grade *A1½*, should their condition warrant it; also, all iron fastened vessels, although otherwise constructed of the best materials, as well as vessels constructed principally of mixed wood, such as Beech, Birch, Rock Maple, Spruce or Pine, with or without an admixture of White Oak, if well treenail fastened and butt bolted through the bottom.

Centre-board vessels, though built of the best materials, will not rate above *A2*, and it is especially requisite in this class of vessels that they be well built and fastened; any deficiency in this respect will cause them to be rated at a lower grade than *A2*.

Vessels rated *A2* will thus remain while kept in efficient repair and continue to deliver their cargoes in good condition, but will be reduced to a lower grade as soon as they fail in either of these particulars or show marks of decay.

*Note.*—Treenail fastenings through the bottom, secured outside on the plank, and inside on the ceiling in the hold, will be required as important to confine the planking of the bottom to the timbers; also that the butt bolts be of suitable size in proportion to the tonnage of the vessel, and be driven through the bottom from the outside, and rivetted on the ceiling in the hold. The omission of the same in either case will subject the vessel to rate half a grade lower than she otherwise would have been, and should both these requirements be omitted, the vessel will then be rated one entire grade lower in consequence thereof.

*Note.*—It is to be understood that bolt fastenings composed of what is termed mixed metal (*i. e.* Yellow Metal) may, if malleable and well manufactured, be substituted for copper fastenings. Galvanized iron fastenings in the construction of vessels have of late been considerably used, and a higher grade claimed in consequence of their alleged superiority over the usual iron fastenings, but until time has proved their efficiency, their use will not entitle a vessel to a higher grade than that assigned to iron fastened vessels.

*Note.*—In all cases the surveyors will judge of the size and strength of the materials used in the construction of vessels together with the quality of the workmanship, &c., and any deficiency in these respects will subject them to a reduced grade.

Insurance Co. of North America,  
ARTHUR G. COFFIN, President.  
Insurance Co. of the State of Penn'a,  
JOHN STEWART, President.  
Union Mutual Insurance Co.,  
RICHARD S. SMITH, President.  
Phoenix Mutual Insurance Co.,  
J. R. WUCHERER, President.  
American Mutual Insurance Co.,  
WILLIAM CRAIG, President.  
Delaware Mutual Safety Ins. Co.,  
WILLIAM MARTIN, President.  
Washington Mutual Insurance Co.,  
CHARLES S. RICHÉ, President.  
Columbia Mutual Insurance Co.,  
GEO. F. MCCALLMONT, Presid't.

Philadelphia Insurance Co.,  
JOSEPH COPERTHWAIT, President.  
Western Insurance Co.,  
WILLIAM B. NORRIS, President.  
Independent Mutual Ins. Co.,  
JOHN H. DIEHL, President.  
Commercial Mutual Insurance Co.,  
CLEMENT S. RUTTER, President.  
Anthracite Insurance Co.,  
D. LUTHER, President.  
Merchants and Mechanics' Ins. Co.,  
J. D. GEORGE, President.  
Atlantic Mutual Insurance Co.,  
JOHN L. LINTON, President.  
Hope Mutual Insurance Co.,  
GILBERT S. PARKER, President.



JOHN R. WUCHERER, Pres't of Board.

ARTHUR G. COFFIN, Vice Pres't.

TIMOTHY ROGERS, Secretary.

G. Gulager, William Fleming, John Gallagher, Enoch Turley, Thomas G. Monroe,	}	<i>Marine Surveyors.</i>
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The legislature of Pennsylvania now attempting to make more specific insurance regulations, a bill to provide for the incorporation of insurance companies generally, passed both houses, and was approved April 2, 1856. Only two classes of companies, however, (stock, mutual and mixed,) were provided for, viz.: 1, fire and marine; 2, life, annuity and trust. "In no case shall the powers conferred on the one class be exercised by the other class without special authority therefor from the legislature." The capital stock (of whatever amount as fixed by special act) "to be divided into shares of fifty dollars each, payment of which" (one-half within ninety days) "shall be made in gold, silver, or notes of specie-paying banks of this commonwealth." No company incorporated under the second class to "undertake or execute trusts of any description until at least one hundred thousand dollars as capital stock shall have been first subscribed and paid in." Scrip certificates of profits not to be paid until the "net profits or surplus shall exceed the sum of two hundred and fifty thousand dollars." No dividends, stock or mutual, to be declared from premiums on undetermined risks. (Pennsylvania Insurance Handbook, 126.)

April 9, An Act Relative to Agencies of Foreign Insurance, Trust and Annuity Companies was approved, to supersede on the first of July following, the act of January 24, 1849. A condition precedent to the admission of the non-State company was a *bonâ fide* capital of two hundred thousand dollars. The act provided for an annual statement to be made to the auditor general, and advertised by the company, comprising eleven asset items, seven items of liabilities (no reinsurance account for non-life companies and no net value of policies for life offices), five income items, and seven items of expenditures. The annual license fees were \$200 for Philadelphia, \$150 for Allegheny or Lancaster county, \$100 for any other county. By the terms of the law the auditor-general was required to tabulate the annual statements of the companies, and communicate the same to the legislature. This statute was, however, little more than a tax law. The agent of each company "shall retain in his hand out of every dollar received by him for premiums, gross sums paid for annuities, and all commissions for executing trusts, the sum of three cents," to be paid to the treasurer of the commonwealth. But the district attorney of each county, who received from the commonwealth 10 per cent. of the tax paid, had "power and authority" to examine annually the books, etc., of such agencies, to satisfy himself that "such agent or agents have fully fulfilled the provisions and requirements of this act, paid all taxes due to the commonwealth," and that each company "is possessed of a *bonâ fide* capital of two hundred thousand dollars safely invested, and make a report thereof once in each and every year to the auditor-general of the commonwealth." (Pennsylvania Insurance Handbook, 142.)



Time having come to drop the title Keystone from P. M. Moriarty's office application was made to the Court of Quarter Sessions for change of name, and, June 1, the Alliance Insurance Company of the City of Philadelphia appeared—"incorporated by the legislature of Pennsylvania, 1834."

Previously, April 19, the Court of Quarter Sessions changed the title of the Pemberton Fire and Marine Insurance Company, with a charter of date of May 7, 1855, to Quaker City Insurance Company, and the Quaker City began; president, George H. Hart; secretary and treasurer, H. R. Coggshall. The Quaker City was projected by the latter. This sentence is extracted from the Pemberton charter:—

That any officer, director or agent of the said company, who shall knowingly and wilfully defraud the said company by embezzling any of its funds in his hands, or entrusted to his care, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine not exceeding twice the sum embezzled, and in the default of payment thereof, shall be imprisoned not exceeding the term of six months in the county jail, or at the discretion of the court having jurisdiction of the offence.

By the general act of incorporation, approved April 2, 1856, such embezzling officer or director, on conviction, was to pay a fine not less than the amount embezzled, *and* undergo imprisonment not exceeding five years, at the discretion of the court.

In respect to loss by extinguishment of fire on shipboard as general average, the Supreme Court, Lowrie, J., in January, declared (*Nimick & Co. vs. Holmes & Co.*) that:—

The danger is a common one, and the cost of the remedy must be common. It makes no difference how the water is applied, whether by the aid of fire engines on the land, or in the form of steam, or by scuttling the vessel. All these modes were tried in this case, before the success was complete. They are all to be treated together, because they all referred to the same peril. They were the means employed for the purpose of averting the danger in which they were placed. It was a sacrifice for the common safety, for it was intentionally injuring or destroying all that part of the cargo that could be thus affected by water, in order to save the rest. The result was successful, if a single article was saved by the means employed.

Under a charter of date of April 26, 1855, the Howard Fire and Marine was organized in July, 1856, its president and secretary respectively withdrawing from like positions in the Importers and Traders'. It was given out that of its authorized capital of \$600,000, there were "\$408,109 actually paid in and invested, and the balance of \$190,000 secured by notes payable on demand." November 5, the Howard was authorized by Comptroller Burrows to transact the business of marine insurance in New York.

With the Metropolitan charter of July 6, 1854, the Continental Insurance Company followed—George W. Colladay, president, Galen Wilson, secretary; next, the Lombard—J. D. Moriarty, president, J. G. Burnap, secretary. The asset figures of the latter were \$188,126, including stock of the Alliance at par received in exchange for Lombard stock at par.

The preliminaries of the act of April 2, 1856, being complied with, letters patent were issued thereunder creating the Fame Mutual Insurance Company of Philadelphia, as designated by the special act of April 15, 1856; and, September 1, the Fame, an honest organization, began business (fire and inland)

with an authorized capital of \$100,000—one-half paid up; George W. Day, president, Williams I. Blanchard, vice-president, Thomas S. Martin, secretary.

The Washington Mutual Marine retired from such competition as was now in order, keeping faith with its members by transferring its outstanding risks to the Insurance Company of North America and the Phoenix Mutual. After such transfer, its scrip retained some value in the market. An agency of the Great Western Fire and Marine, of New York, had been opened in the city. After brief experience, the Great Western decided to withdraw; the agency of the Insurance Company of the Valley of Virginia was also withdrawn.

From organization to November 1, 1856, the Atlantic Mutual received \$53,158.86 marine and inland premiums and \$7,457.33 fire premiums. With earned premiums amounting to \$41,962.19, there were \$17,413.80 paid for marine and inland losses, and \$814.80 for fire losses. Total assets at end of the period \$173,887.98, of which \$114,835.15 were bills receivable. The later organized Farmers and Mechanics' reported to same date \$214,684.60 of marine and inland premiums received, and \$176,796.61 of fire premiums, declaring a dividend of 15 per cent. November 17. For year ended November 3, the Merchants and Mechanics' received total premiums of \$98,416.19; \$95,224.91 marine, and \$3,191.28 fire. Disbursements in the year were \$71,975.60. President J. D. George, of this office, was essentially a marine underwriter, and further fire risks were now declined. The Reliance Mutual, a fire office, was making an essay at the writing of marine risks. November 16, Gov. Pollock signed an act extending the thirteenth section of An Act regulating Banks (April 16, 1855,) to all incorporated banking, saving fund, trust, and insurance companies. November 17, it was resolved by the directors of the Great Western, of Philadelphia, "that a dividend of ten per cent. be declared on the amount of subscribed stock for the eight months ending on the first of November, instant." Thomas Rawlings was early ousted from the presidency of the Great Western, and Charles C. Lathrop took the position; a jury in the Nisi Prius court subsequently awarded Rawlings \$641 for services rendered.

The members of the agency firm of Gillett & Coggshall being now occupied with the affairs of the local companies with which they were identified, this firm was succeeded, November 22, by Thompson & Rood.

For year ended November 30, the final taxes on non-State insurance agencies under the act of 1849, now repealed, were paid. The auditor-general reported the receipt of \$6,224.28 of taxes paid by the Philadelphia agencies. For tax on capital stock rated by dividends, further enforced by act of May 7, 1855, \$24,039.88 were paid by State companies—mainly Philadelphia offices.

In the six months ended December 31, 1856, the Quaker City received \$39,565.92 for premiums, and disbursed for losses and expenses \$13,214.52. Amount at risk in fire branch at date \$407,040, marine branch, \$360,399. The Girard Fire and Marine was now discontinuing marine writing. Generally, for 1856, the mutual marine offices omitted scrip dividends, while paying 6 per cent. interest on outstanding scrip. The Fame Mutual wrote \$535,950 of fire risks and \$21,998 of inland risks in 1856, from commencement, September 1,

—average fire premium 82 cents, average inland premium \$1.25; no losses payable in the four months. On its small business the Fame had \$836.75 of balance in hands of agents, and such balance was now becoming an increasing asset item among the new fire-marine companies.

The fire-marine insurance speculation had now culminated. An effort was, however, proceeding slowly to organize, at the beginning of 1857, the Neptune Insurance Company, authorized by special act of April 21, 1856, to become a body politic and corporate under the general act of incorporation. The tonnage of the port was, at this date: Registered vessels 81, tons 35,969; enrolled vessels 1,267, tons 139,496; licensed 87 vessels, tons 1,163; total of these 1,435 vessels, tons 176,628. Of such ships, brigs, schooners, etc., there were available for foreign commerce 211 vessels, with a capacity of 62,721 tons. Exports were, for year ended in 1856, of the value of \$7,135,156, imports \$16,585,685. As to foreign commerce, there entered under American flag in the year, 452 vessels, 160,557 tons; cleared, 304 American vessels, 110,581 tons;—entered under foreign flag, 125 vessels, 37,696 tons; cleared, 127 vessels, 38,409 tons. The marine underwriting of the city was, however, sharing largely in the commerce of other ports. Minimum cargo rates, ocean risks, were about as follows:—

Atlantic ports from, to ports in Europe not in the Northern sea, . . .	1¼	@	3
“ “ “ “ in the Northern sea, . . .	2½	@	4½
Africa, to or from (general liberty), . . . . .	1½	@	2
“ out and home, . . . . .	3	@	4
Apalachicola, to and from, . . . . .	1½	@	2½
Bermuda, to or from, . . . . .	1	@	1½
Brazils, to any port, . . . . .	1½	@	2
Buenos Ayres, direct, . . . . .	2	@	
“ and Montevideo, . . . . .	1½	@	1¾
Bahamas, to or from, . . . . .	1½	@	2
Batavia, or any one port in the Indian ocean, . . . . .	1¾	@	2
“ out and home, . . . . .	3½	@	3¾
Canton, direct, . . . . .	2	@	2½
“ out and home, . . . . .	3¾	@	4½
Cuba, any one port, . . . . .	1½	@	2
Calcutta, out, . . . . .	2¼	@	2½
“ out and home, . . . . .	3	@	4
Cadiz, . . . . .	1¼	@	2½
Charleston, Savannah, and Darien, to or from, . . . . .	¾	@	1
Denmark, . . . . .	2½	@	3½
Demerara or Surinam, out or home, . . . . .	1½	@	2
France, to or from, . . . . .	1	@	2½
“ out and home, . . . . .	2½	@	3½
Great Britain or Ireland, to any port out or home, . . . . .	1½	@	3
Great Britain, north of the Thames, . . . . .	3	@	5
“ and back to the United States, . . . . .	2¼	@	2¾
“ Dry goods, home, . . . . .	2	@	2¼
“ Hardware, home, . . . . .	2½	@	
Gibraltar, . . . . .	1¼	@	2½
Halifax, to or from, . . . . .	1½	@	2¼
Honduras, to or from, . . . . .	2	@	2½
Laguayra, . . . . .	1¾	@	2½
Lisbon, to or from, . . . . .	1¼	@	2½
Madeira and Western, . . . . .	1¼	@	2½
Cape De Verd Islands, . . . . .	2	@	2¼
“ “ “ out and home, . . . . .	4	@	4½
Malaga, . . . . .	1½	@	2¼
Trieste, . . . . .	1¾	@	2½
“ and back to the United States, . . . . .	3½	@	4½





called the Insurance Intelligencer,—proprietor and editor, Orrin Rogers, whose connection with the Manufacturers' Insurance Company as secretary had terminated, and he had become a fire insurance broker and fire loss adjuster. J. Hill Martin was early a contributor of insurance legal decisions, and such decisions became an important feature of the Intelligencer. The Philadelphia Underwriter, an octavo monthly pamphlet, W. R. Wade, proprietor and editor, appeared a few months later.

A project was begun in February, 1857, styled the Underwriters' Association of Philadelphia, looking towards the protection of companies against the personal element of hazard. It was a scheme of new fire-marine companies which conceived their risks to be heavily laden with a large share of foul play on the water and fraudulent incendiarism on land. This association proposed to ascertain the character and standing of applicants for insurance by such inspectors or other agents as should be decided upon. It was in no respect a tariff organization, did not assume to enter upon the investigation of moral hazard as a question of rate, while objecting to the placing of risks of mere business adventurers upon a par with long established mercantile houses. Largely the refuse risks would reach companies of the class composing the association, and as a means of knowing what to decline or how to rate, the object was praiseworthy—certainly better than to begin the detecting upon the occurrence of loss. This association shared early in the dissolution of the companies composing it.

While the established companies were not essentially affected in their stability by the recent adventurers, the oldest companies doing a marine business had rather receded than advanced in the last five years. The position was somewhat expressed in the market price of the scrip of the mutual companies, which was selling at auction as follows: Union Mutual, 29@35 per cent.; Phoenix Mutual, 31@36 per cent.; Delaware Mutual, 35@40 per cent.; American Mutual, 10 per cent. There were sales of the scrip of the Independent Mutual at 57½ per cent., as such scrip was receivable at par in payment of premiums. The certificates of the liquidating Washington Mutual were worth 15@17 per cent. Shares of the Philadelphia Insurance Company, par \$50, were selling at \$18, and those of the Columbia Mutual, appraised by the office at \$11, were in market price \$2.50. Total premiums of the Independent Mutual were, from December 1, 1855, to November 29, 1856, \$290,940.46—

	Steamers.	Propellers.	Barques.	Brigs.	Schooners.	Scows.
Wrecked and sunk, . . . . .	32	26	16	35	227	11
Stranded, . . . . .	68	54	24	111	495	18
Fire, . . . . .	23	14	.	.	9	.
Damaged, . . . . .	124	114	52	182	557	3
Jettison, . . . . .	6	21	4	14	64	3
Collision, . . . . .	66	70	18	55	148	3

\$275,554.78 marine, and \$15,385.68 fire; total paid for losses in such period, and expenses, reinsurances, and return premiums, \$360,518.92.

The State legislature added in 1857 a supplement to the act of April 2, 1856, prohibiting the companies incorporated under the provisions of the said act from investing or employing their funds in "promissory notes, bills of exchange, or other negotiable paper"—a source of revenue to other companies that had surplus funds. April 24, Gov. Pollock approved an act making it lawful, in addition to the remedies already provided, "for any person or persons, body politic or corporate, who may have a cause of action against any insurance company" (State and non-State), "to bring suit in any county where the property insured may be located, and to direct any process," etc. (Pennsylvania Insurance Handbook, 137.) May 12, the foreign agency law was applied by supplement to "*all* foreign associations, companies, firms, individuals or co-partnerships entered into, formed or established for insuring fire, marine, inland or life risks, granting annuities or accepting trusts." (Pennsylvania Insurance Handbook, 150.) This was an encroachment subjecting the person to the restraints imposed upon the corporation.

The Importers and Traders' had issued a circular in February to its policy-holders, which had the merit of being correct information, excepting as to the "some" future time at which unearned premiums would be paid. This was the substance of such circular:—

The directors inform all persons insured in this office, of their inability pay any losses for which their policies would make them liable.

The unearned premium of your policy will be calculated to this date, and placed to your credit—to be paid you at some future time—to pay you the cash is out of the question. This course has been deemed advisable, to enable you to reinsure in other companies, if you think proper.

Two months later, in the District Court, before Judge Hare, there was an application for an injunction restraining George T. Rowand, president, George L. Nagle and others, directors, from continuing the business. The complaint set forth that—

The stock of the company was never in truth paid in, or in any lawful or sufficient manner secured to said company, and that the said company never at any time had any really substantial and available capital which could afford any security to the insurers therewith, and that the true condition of said company was well known personally to the defendants.

That with a view to obtain further sums of money, the defendants have issued a large amount of stock, which has been called a preferred stock, and have been selling the same in market at prices below par. That the officers and directors of the said company, with a view to induce persons to make insurances with them, made, and, as part of a scheme to procure the payment to them of large sums of money, procured to be printed and widely circulated a Card advertising insurances at the lowest rates, with a statement of authorized capital of \$500,000, assets \$209,073.78, and liabilities \$10,244.37, upon which statement a large number of persons made insurances with and paid premiums to the said company, which said statement the complainant charges is utterly false. That the company had not in fact any assets of the value of \$209,073.78, and if there were in their possession any such bonds, mortgages and real estate or property mentioned in the assets, the same were valued and stated at sums entirely fictitious. That the company is entirely unable to meet the debts and demands due, and that shortly after receiving premiums from various persons, they issued a circular announcing to Mr. George B. Sloat their inability to pay losses incurred.



Affidavits were presented by several of the directors named as defendants denying any connection with the company. The injunction was granted, and Horatio Etting appointed receiver.

The public became alarmed at the magnitude of the evil. Action in the matter was taken by the Board of Trade, and the following resolutions were adopted:—

*Resolved*, That a committee of ——— members be appointed to address the several presidents of insurance companies, and request such information as will enable members to safely advise correspondents so making inquiries of their respective companies. Also, to ascertain, as far as possible, what companies habitually divide risks and reinsure with each other, and what companies do not enjoy this confidence and business from the others generally.

*Resolved*, That the committee so appointed be instructed to apply to the general assembly of Pennsylvania for such legislation as will secure the public against loss from irresponsible insurance companies.

Another resolution requested the committee to examine charters, especially investigating as to whether, in any charters, "there are provisions for vesting in executive committees an absolute control of all financial matters while trustees are nominally provided for as a governing department thereof."

A bill for marine, inland and fire companies was introduced into the State senate, requiring an annual statement from the companies, and stipulating for three competent commissioners (to examine the statements) for each county of the State where insurance companies were located—such commissioners to be appointed by the judges of the Court of Common Pleas of each county. The bill did not pass; the Board of Trade (with its investigating committee of ultimately twenty-one members) was shown to be powerless to effect any beneficial result—the most trustworthy offices were not favorable to any form of espionage, though a few companies gave notice of their readiness to be scrutinized.

There were at this time fifty-one local offices (not including one office just organized and two others about organizing) and twenty-nine licensed agencies in the city. As to the responsibility of the local offices, the following classification was made by Tuckett's Monthly:\*

<i>Reliable.</i>		<i>Insufficient Assets.</i>	
Fire and marine, . . . . .	7	Fire and marine, . . . . .	9
Fire only, . . . . .	7	Fire only, . . . . .	8
Marine and inland, . . . . .	2	Marine and inland, . . . . .	1
Life, . . . . .	3	Life, . . . . .	2
	—	Fire and life, . . . . .	1
	19		—
			21
<i>Fraudulent.</i>		<i>Unsafe Business.</i>	
Fire, etc., . . . . .	2	Fire and marine, . . . . .	1
Fire and marine, . . . . .	6	Fire only, . . . . .	1
	—	Life, . . . . .	1
	8		—
			3

The Neptune was organized in June for fire, marine, inland navigation and transportation risks; H. C. Laughlin, president, George Scott, secretary.

\* There are 20 of these 51 offices of 1857 in existence at the writing of this. Of such 20 there were 13 in the class Reliable, and 7 were classed under the head Insufficient Assets. Of the 26 Philadelphia companies doing a marine business in 1857, 4, and these of the class Reliable, have survived.

As a sequel to much protestation of decided solvency, after the Importers and Traders' the Alliance—late Keystone—was disposed of. In the District Court, June 20, before Judges Sharswood, Stroud and Hare, there were applications for the appointment of a receiver and a sequestrator. As to the exhibit of the Keystone, made for date of June 1, 1855, one part of the affidavit of Robert Paton, of New York, ran as follows:—

That besides the stocks in the said exhibit referred to, and for the purpose of swelling the assets, the said defendants have since exchanged with the Continental Insurance Company of Philadelphia 1,000 shares of the defendants' stock for the same amount of the stock of the Continental company; and that the same exchange was also made with National Insurance Company of Jersey City, for 300 shares of their stock—the par value of both these stocks being \$50. The 1,300 shares so borrowed were put in as \$65,000 of the capital of the Alliance company, when in truth and in fact it was but a mere exchange of stocks with other institutions equally worthless with the defendants'.

An exchange of stocks, similar in character to the above, was also made with the Lombard Insurance Company of Philadelphia for \$35,000 of the nominal worth of their stock at par; so that by these three exchanges the defendants' corporation represent themselves to the public as holding \$100,000 in actual worth of the stock of other companies, when in truth and in fact they have no such real ownership, and if they had, the said stocks would be worthless in the market or otherwise soever.

That among the assets of said defendants appear \$18,000 worth of mortgages upon certain real estate at the corner of Kosciusko street and Mary avenue, Brooklyn, N. Y., being a lot 100 feet square. That the said real estate was purchased by the said P. M. Moriarty of one Erastus B. Roberts, on or about the 9th of May, 1856; that the said Roberts purchased the same at sheriff's sale in February, 1856, for \$2,790; that the said Moriarty, on June 3, 1856, created mortgages in favor of Judson M. Thompson, the secretary of defendants, for the sum of \$18,000, and put the same among the assets of the defendants as \$18,000, when in truth and in fact the property on which the said money was secured was worth no more than the price it had brought at the sheriff's sale a few months previously; and this affiant further says, that said P. M. Moriarty took out of the assets of the defendants stock or money to the amount of \$18,000 against the said mortgages.

Joseph A. Clay was appointed receiver and also sequestrator, and Mr. Clay was succeeded by Edward M. Paxson.

August 1, 1857, the Farmers and Mechanics' discontinued ocean marine risks.

The ending of the Importers and Traders' caused some prodding of the Howard Fire and Marine, whereupon the board of directors met in special meeting and adopted, unanimously, the following preamble and resolutions:—

WHEREAS, an article, which first appeared in a paper of this city, and subsequently copied by a paper in a neighboring city, calculated to create distrust in relation to the capital and investments of the Howard Fire and Marine Insurance Company, and insinuating that it is, or has been, connected with another insurance company, recently compelled to go into liquidation, has been circulated in different parts of the country, where the character and standing of the company cannot be thoroughly known or investigated; and whereas, a due respect for public opinion, and regard for our own reputations in other communities seem to require a notice from us, which would not be necessary here; therefore,

*Resolved*, That upon a thorough examination of the business of the company, evidences of its prosperity and success have been exhibited which could not but satisfy any or all interested in its stability and welfare.

*Resolved*, That in our belief the whole amount of the capital stock and assets of the company has been invested in securities which will command the approbation and confidence of our entire business community.

*Resolved*, That this company has not, and never has been, connected, either directly or indirectly, with any other insurance company.

*Resolved*, That in the success and prosperity of this company a business community will find the best guarantee for the security of the risks which may be placed in its hands,

and that their continued patronage be solicited with an entire confidence in its ability and willingness to meet promptly and freely all its engagements.

*Resolved*, That copies of the above resolutions, signed by the officers, be sent to the papers in which the company advertises, for publication, and a circular containing them be issued for general circulation.

PERCIVAL M. POTTS, President.  
C. E. SPANGLER, Vice-President.  
WM. H. WOODS, Secretary.  
R. T. KENSIL, Treasurer.

Net earnings to the amount of \$24,125.82 were claimed by the Howard for the thirteen months of its operations—from August 1, 1856, to August 31, 1857; earned marine premiums \$155,005.60 in a total of \$217,793.62 received, and of \$38,729.81 fire premiums received, the earned were reported at \$25,072.96; marine losses paid \$93,885.75, fire losses paid \$8,031.11. The net disbursements were \$144,233.27, against \$168,359.09 of earned premiums—no losses appeared as unsettled.

September 21, the Bank of Pennsylvania suspended, and the panic of 1857 was in full sweep. The first signal of this rapid collapse of trading on borrowed capital was the failure of the Ohio Life Insurance and Trust Company, incorporated in 1834, which had ceased to write life policies, and with two millions of capital was pursuing a banking and trust business. Six per cent. mortgages, first liens on Philadelphia real estate, had been selling at 90 per cent., and insurance companies in at least a few instances paying claims with money borrowed at the prevailing market rate of 2 per cent. a month, was another feature of the times. The run on the banks caused a suspension of specie payments, and notes given for premiums were protested in great number.

The Commercial Mutual stopped issuing marine policies in October.

In the same month the Lombard disappeared, after a visit from the sheriff; the office furniture, etc., being levied upon, such effects were sold for \$118—\$75 of which were for rent, the balance in satisfaction of a confessed judgment. The business of the company had been previously sold out to two or three New York offices.

Some curtailment of the credit business was forced upon the marine writers, and accordingly the following arrangement was adopted by the Board of Marine Underwriters:—

On single risks, to or from ports in the United States or British Provinces, the credits to be reduced from three months to two months. Out and home, same risks, from four months to three months.

On risks from the west coast of America to the Sandwich Islands, or *vice versa*, the credit to be four months instead of six months. Out and home, six months instead of eight months.

On open policies, from all foreign ports to ports in the United States, six months.

On all inland open policies, a credit of eight months.

All open policies, when full, to be closed until a new credit be opened.

Premiums under \$50 to be considered as due in cash, but when the accumulated premiums of any one party during any one month exceed \$50, a credit of two months may be allowed.

All premiums to be settled according to contract before the delivery of the policy.

Premiums for time risks, for one year, on vessels, freight, &c., &c., to be settled by two notes, one-half the amount at six months, and the other half at twelve months, and in case



of non-payment at maturity of the first note falling due, then the policy thereafter to be void and of no force. The same rule to be applied to all risks of shorter periods than twelve months.

It is recommended that the following notice shall be inserted in the policy:—

It is agreed that the premiums under this policy shall be settled by two notes of equal amounts, at six and twelve months, and that in case of non-payment at maturity of the first note falling due, then this policy thereafter to be void and of no force.

Despite of accumulating disaster, with nearly all the new projects lingering from day to day in uncertainty, the attempt to make more fire-marine insurance companies did not altogether stop, and under a charter of 1855 the Corn Exchange Insurance Company was projected; John Swift, president, L. W. V. H. Starr, secretary. Parties identified with the management of the United States Life Insurance, Annuity and Trust Company were also identified with the Corn Exchange.

Collapse was now, however, fully inaugurated, and the Mercantile Mutual,\* the Philadelphia, the Independent Mutual, and the Commercial Mutual closed their doors.

For year ended November 30, 1857, the taxes paid by State companies were \$2,819.66 less than in the previous corresponding year; the taxes paid by non-State agencies (act of April 9, 1856,) were \$427.21 more.

Unlike the sequences of the panic of 1837, there was a sharp reaction in 1857. While the depression from 1837 to 1845 wore out the life of established marine offices, the convulsion of 1857 did not essentially affect the established companies of the time; the brief depreciation in the market prices of the securities constituting the funds being in the main retrieved, though so-called securities passing at nominal values were obliterated. It was estimated that there was an erasure of about three hundred millions for the whole United States in the figures which had been current as prices of railroad and other

\* Actions of assumpsit were brought by the Mercantile Mutual on the following two premium notes in the District Court of Allegheny county:—

PITTSBURGH, March 4, 1857.

\$600.

Nine months after date, we promise to pay to the order of Mark Sterling, six hundred dollars, without defalcation, for value received. Payable at the Pittsburgh Trust Company.

WHITE CLOUD.

P. A. ALFORD, Capt. boat and owners.

(Endorsed) "M. STERLING."

PITTSBURGH, February 7, 1857.

\$450.

Nine months after date, we promise to pay to the order of Caldwell & Bro., four hundred and fifty dollars, without defalcation, for value received. Payable at the office of Wm. P. Jones, agent Mercantile Insurance Company, Pittsburgh.

For Steamboat Paul Jones and owners,

M. STERLING.

(Endorsed) "CALDWELL & BRO."

In the first of the two cases, Sterling, the defendant, put in the following affidavit of defence; and a similar affidavit was filed by Caldwell & Bro., in the other case:—

"Mark Sterling, defendant in above case, being duly sworn, according to law, saith: that he hath a just and legal defence to the whole of plaintiffs' claim in the above case, as he is instructed and believes; that defendant is sued as endorser of a note drawn by P. A. Alford, captain, and for owners of steamboat White Cloud, to the order of defendant, for the sum of \$600, dated at Pittsburgh, March 4, 1857, at nine months; that said note was given to William P. Jones, agent of the plaintiffs, for the full amount of one year's insurance of steamboat White Cloud; which insurance was effected on the 4th of March, 1857, and would expire on the 4th of March, 1858. The plaintiffs (the Mercantile Mutual Insurance Company of Philadelphia), during the fall of A. D. 1857, failed, and are utterly unable to meet their liabilities; and deponent is informed, and verily believes, that during the whole year of A. D. 1857, said insurance company was insolvent, and utterly unable to pay any losses that might have happened on said steamboat, she being insured for about \$6,500, and that said company was a fraudulent corporation, without any real means or ability to pay losses or other liabilities, as your deponent is informed and believes. Your deponent is unable

corporation shares. Prices at the Philadelphia stock board compared as follows at or about the dates given:—

	Jan. 31, 1857.	Feb. 1, 1858.
Philadelphia 6's, . . . . .	88½	91 ⅝
"    5's, . . . . .	80¼	78
Pennsylvania 5's, . . . . .	83⅛	87½
United States 6's, . . . . .	116¼	112½
Pennsylvania R. R., . . . . .	48½	41¼
Reading R. R., . . . . .	40½	29⅛
North Pennsylvania R. R., . . . . .	15⅛	9½
Norristown R. R., . . . . .	66	54½
Mine Hill R. R., . . . . .	62½	60
Lehigh Valley R. R. 6's, . . . . .	70¼	65
Schuylkill Navigation, preferred, . . . . .	25⅝	16½
Lehigh Navigation, . . . . .	56	55½
Camden and Amboy 6's, . . . . .	80¼	73
Bank of Pennsylvania, . . . . .	111½	6
Bank of North America, . . . . .	154	131½
Manufacturers and Mechanics' Bank, . . . . .	31½	25
Girard Bank, . . . . .	11¼	9½

In January, 1858, the assets of the Insurance Company of North America were \$1,007,825.26 (bills receivable \$343,906), against \$1,043,563.05 in January, 1852. Assets of the Union Mutual were valued at \$337,927 January, 1858, against \$465,020 January, 1857. Of the \$337,927, about two-thirds, or \$230,482, were composed of bills receivable (premiums), unsettled premium balances, subscription notes for guaranteed capital, and various credits. (The capital subscription notes were reduced in 1857 from \$100,000 to \$49,500.) Premiums received by the Union Mutual in 1857 were \$254,291.62 (earned premiums \$275,380.30); losses, returned premiums, reinsurances and expenses

to state the precise time of the failure of said company, but believes, from information received, that it was in the fall of A. D. 1857, about five or six months before the expiration of the policy of insurance.

"M. STERLING.

"Sworn and subscribed before me, this 2d day of June, 1858.

"JOHN BIRMINGHAM, Prothonotary."

The rule of the court below required the affidavit of defence to state therein "specifically and at length, the nature and character of the same."

The court gave judgment for the plaintiff, in both cases, for want of a sufficient affidavit of defence, which was assigned for error.

In Error. Thompson, J.: . . . . . The defendant swears that he is informed and verily believes that the company was insolvent during the whole of the year 1857. . . . . But whether or not, the liability of the company existed all the while. The legal obligation to pay was not weakened by inability to pay. The contract stood upon promise for promise. It would hardly be thought of, as a valid defence for the company, if the insolvency had existed on the other side, that because the premium note might not have been collectible, that they could not have been compelled to pay in case of loss. That is but an inversion of the case. The ultimate value of the promise by the company, which was the consideration for the promise on the other side, is not the test of obligation. . . . .

The incidental allegation, for it is no more, that the company was a "fraudulent corporation," under the qualification that the defendant is "informed and verily believes" it was so, does not aid the affidavit. There is no averment of fraud or trick, or concealment, to induce the insured to enter into the contract of insurance. Nor are there any facts disclosed to show in what it was fraudulent. It is quite possible for a party to be of opinion that an inability to pay losses constitutes the corporation a fraudulent one. To different minds, different acts might be considered fair or fraudulent; hence the necessity of the rule which requires that the affidavit of defence shall "state specifically and at length" the "nature and character" of the defence, so that the court may be able to see that there is a defence that calls for a trial. If fraud is the defence, it must appear in what it consisted. In *Brown vs. Street* (6 W. & S., 221), it is said that the facts constituting the defence must be stated. So in *Moore vs. Somerset*. (*Id.* 262.) So, too, the facts must be positively averred to exist, (*Walker vs. Geisse*, 4 Wh., 257; *Lord vs. The Ocean Bank*, 8 Harris, 386,) which is not a characteristic of this affidavit. We think there was no error in entering the judgment in this case.

Judgment also affirmed, on the same grounds, in *Caldwell et al. vs. the same defendant*. (8 Casey, 75.)

Reasons for characterizing the Mercantile Mutual as a fraud, in the average business sense, do not appear. As a *mutual* company, the policyholders were fairly bound to abide the issue of profit or loss; as an *insurance* company, *i. e.* as a corporation assuming to guarantee absolutely against loss, and then promising to do what it was not capable of doing, a question arose, not yet determined. Insurance began with the personal underwriter contracting a business obligation according to his personal responsibility.



were \$352,758.96. The Phoenix Mutual had a surplus of receipts over disbursements in the year's account, and its assets, January, 1858, were, first, \$97,649.61 in real estate mortgages and ground rents; second, others representing on their face \$150,923.59, estimated as worth \$127,080. With premium receipts of \$540,231.69 in year ended October 31, 1857, the asset increase of the Delaware Mutual was \$2,091.21 in a total of \$702,785.87—\$100,000 subscription notes and \$220,291.95 bills receivable. Fire risks of the last-named company in force October 31, 1857, were \$13,073,641; inland and marine, \$6,867,886.

The Farmers and Mechanics' part-year marine business in 1857 resulted in the receipt of \$118,155.05 of marine premiums, and there was in the whole year a payment of \$122,640.09 of the company's marine losses; the latter was the virtual termination of the company, but a brief effort was made to continue the organization for the assumption of fire and inland risks—fire losses having been about 55 per cent. of the premium. By the Anthracite \$44,997 were received for marine premiums in 1857, and \$43,625 paid for marine losses. The Atlantic Mutual had for year ended October 31, \$38,522.18 of earned marine premiums, and it paid \$33,506.52 for marine losses. The Neptune, at the close of 1857, had \$595,874.47 of marine and fire risks in force. An exhibit of \$46,094.07 of receipts over disbursements for the year was made by the Quaker City. Its premiums were largely made up of "negotiable bills receivable," and these constituted a great part of its assets. This company, which, with the Neptune, was issuing marine policies in San Francisco, secured authority from the State comptroller to do business in New York, as did also the Great Western. L. S. Chatfield, the comptroller's agent, reported as to the Great Western, that four of its asset items, "Cash on hand and in the hands of agents, Unsettled premiums, Bills receivable, and Stock notes, amounting to \$93,858, are good and available to the company for that amount, or nearly that amount," etc. The Quaker City opened distinctive marine and fire agencies in New York city, and appointed its representatives for Albany, Troy and Buffalo.\* An office was still kept open in Philadelphia by the Continental, and it received some premiums from other quarters. The Western, an office without taint of fraud, realized the imaginary extent "of the profits of the company," in which the insured were to share, and under the pressure of marine losses and the risks of promissory-note marine premiums, withdrew from business in February, 1858, after five years' trial.

More adventures were, however, at hand. The Safeguard (fire and inland) appeared on Walnut street, and was described as a New York office under a Pennsylvania charter; George L. Doughty, president, Jacob N. Keeler, secretary. It was admitted to do business in New York, April 15, with a sworn statement of assets to the value of \$200,900, or \$900 in excess of the

\* Lake underwriting did not share in the increased ocean vicissitudes of 1857; losses \$1,387,935, against \$3,126,744 in 1856; losses by 105 steam vessels in 1857, \$477,812, by 376 sail vessels \$910,093; hull rates (season), steam, 3 classes, 8@20 per cent., according to class and tonnage; season hull rates, sail, 5 classes, 6@15 per cent., according to class and tonnage; additions to both scales for year and particular trades and passages. The Produce Cargo tariff, from April to November, inclusive, was from  $\frac{1}{2}$  to  $4\frac{3}{4}$  per cent. for B steam vessels and A2 sail, according to date, character of cargo, place of departure and loading, and port of destination; particular average on grain 10 per cent., on salt 20 per cent.



capital. The Eastern, with an act approved in March authorizing business of the first class, under act of April 2, 1856, began at once; Andrew Cochran, president, and William I. Brown, vice-president,—the latter withdrawing from the secretaryship of the Columbia Mutual. An impetus was given to the Corn Exchange by the accession of William M. Godwin to the presidency—Mr. Godwin had been Philadelphia agent of the Provincial, of Toronto. The City, as the sequence of the Odd Fellows' Mutual, was getting ready to effect insurance upon "houses annually or perpetually, personal property annually or for a less period, take marine, inland and life insurance risks, receive deposits, hold trusts, and grant annuities." It was a good exhibition of the pretensions which were in vogue. The City, as affording the financial permanence requisite as a basis for perpetual fire insurance and annuities on lives, was at best but a burlesque.

The State legislature had essayed to check the great insurance abuses, and a bill was introduced in January into the House of Representatives by John H. Dohnert, who was president of the Spring Garden Fire Insurance Company, providing for the appointment of supervising county commissioners, the securing of trustworthy capital and asset conditions, etc. After modification the bill passed both branches of the legislature, but it was vetoed by Governor Packer for satisfactory reasons. Investments in ground rents, as to the present and the future, received the following sanction:—

SECTION I. Be it enacted, etc., That all insurance and trust companies, saving funds and building associations, incorporated under or by any law of this commonwealth, are authorized to purchase, hold, sell and convey ground rents; and all conveyances of ground rents heretofore made by or to any such corporation shall be good and effectual, and have the same force and effect as if the same had been made subsequent to the passage of this act. Approved April 21, 1858.

Another enactment approved the same day aimed to enforce the much disregarded corporation tax laws (attended with account of capital) by forfeiture of charter. (Pennsylvania Insurance Handbook, 159.)

While the fire loss of 1857 had been at an average rate, and lake disasters below the average, ocean losses approached towards the maximum; but disasters by sea were occurring to less extent in 1858. Monthly lists, however, prepared by I. H. Upton, of New York, showed 616 disasters, mainly to American vessels, in the four months ended March 31, with an average estimated loss of \$14,467, viz.:—

	Collisions.	Abandoned.	Fires.	Stranded.	Dismasted.	Missing.	Boiler explo- sions.	Other causes.	Total.	Estimated. loss.
Steamers, . . . . .	8	..	17	27	..	..	5	9	66	\$2,952,425
Ships, . . . . .	15	12	6	43	13	3	..	83	175	4,056,475
Barques, . . . . .	6	9	2	28	7	1	..	45	98	866,225
Brigs, . . . . .	3	4	..	39	13	1	..	29	89	367,705
Schooners, . . . . .	20	11	5	74	14	5	..	59	188	698,390
Totals, . . . . .	52	36	30	211	47	10	5	225	616	\$8,911,220

In May, 1858, the Supreme Court in banc reversed a judgment given at Nisi Prius the previous December, in the matter of the schooner *Orb*—action of covenant—and awarded a new trial. Policy on the schooner was executed by the Delaware Mutual Safety Insurance Company, and issued to Winter, Latimer & Co., of Baltimore, May 7, 1851; the *Orb* having sailed, May 1, on a voyage from Baltimore to Portland, Oregon.

Vessel valued at . . . . .	\$ 5,500	Insurance, . . . . .	\$2,500
Cargo " " . . . . .	17,000	" " . . . . .	5,000

Encountering tempestuous weather, with heavy seas, the vessel became leaky and put into Rio, July 8, where the master, as agent of the owners, placed the vessel and cargo in the hands of Maxwell, Wright & Co., merchants of that city, and made the usual protest. After a survey and report of condition, repairs were ordered, and with the repairs the vessel was reported, after final survey, to be seaworthy and fit to continue the voyage. As the master had no means to pay for the repairs, Maxwell, Wright & Co. made the necessary advances on a bottomry and respondentia bond\* on the vessel and cargo for \$3,272.14, at 56 per cent. maritime interest, to be paid when the vessel should arrive at the port of San Francisco, and be safely moored for forty-eight hours, when the bond became due and payment could be enforced. The *Orb* sailed August 1, 1851, and, September 11, when off Cape Horn, tempestuous weather and a series of heavy storms damaging the vessel, a consultation was held, and the master concluded to make a port on the Atlantic coast, and obtaining assistance from a whaler, returned to Rio, October 15, and again consigned his vessel and cargo to Maxwell, Wright & Co. On survey, sale of the schooner was recommended. A survey being held on the cargo, it was recommended to be sold for the benefit of all concerned, "being generally so badly damaged as

\* In connection with such loans as attending intercepted passages at the time to Pacific ports, we cite *Insurance Company of North America vs. Devereux*—a cause in the District Court, Philadelphia, April, 1858, before Judge Hare and a jury:—

The ship *John N. Gossler*, Sage, master, and James Devereux, registered owner and ship's husband, sailing with a cargo from Philadelphia, July, 1850, for the port of San Francisco, put into Rio for repairs, where the master borrowed from Maxwell, Wright & Co. \$8,024.20 on bottomry, for that purpose, at 58 per cent. The ship afterwards proceeded on her voyage, and arrived in safety at her port of destination, where the general average was collected by the agents of the defendant from the consignees of the cargo, the statement made up, and after deducting expenses, the proceeds were remitted to the defendant.

Before this, however, the bottomry bond was transferred to W. & D. C. Wright, who offered to assign it to the defendant on payment of the principal and 6 per cent. interest. The defendant applied to the plaintiff and other insurers on vessel, freight and cargo, to advance him the whole sum necessary to take up the bond, which they did, and the bond was assigned to him; the defendant agreeing not to collect from the consignees of cargo insured by the plaintiff and other insurance companies, any general average at San Francisco.

But the plaintiff says that having paid its proportion of general average and expenses on the cargo insured by it, at San Francisco, it owes neither the ship nor the defendant anything, and is entitled to a full return of the money advanced by it to pay the bottomry bond and interest; that the defendant *having collected* his proportion of the bottomry bond twice, viz., once from the plaintiff and again from its assured, the consignees of the cargo at San Francisco, and the plaintiff having twice paid its proportion—first to the defendant, and secondly to its insured—the whole advance to the defendant must be refunded.

The expenses, in the statement given to the court, as incurred at San Francisco, formed a part of the general average charge, and were paid ratably by the consignees of the cargo, and by the plaintiff and others to their assured.

The defence was that the real owners of the ship were Diehl & Co., and that they had collected from the insurers on vessel and freight their portion of the bond (which was not collected a second time at San Francisco), and that therefore the plaintiff should look to Diehl & Co. for payment, and not to the defendant, who was only the agent of Diehl & Co. for the ship's account, and of the holders of the bond for its collection. Verdict for the plaintiff for \$400.

Prior to this, in the District Court, in the case of the Delaware Mutual Safety Insurance Company *vs.* James Devereux, there was a verdict for plaintiff for \$764.53.







Assuming, then, that the intention to go to Portland was kept up, this was only an intended deviation, and the bottomry bond had no influence on the case, except so far as it makes the proof clear of an intention to deviate. It no more constitutes an abandonment of the voyage than taking in a cargo for San Francisco would have done. If there was no actual deviation, no condition of the contract was broken. (6 Casey, 334.)

Hull risks were now discontinued by the Merchants' Insurance Company. Often, however, the hull jeopardy was the cargo jeopardy. April 3, 1856, Algeo & Co. effected an insurance in the Merchants' on ice in four boats from Freeport, Pa., to Nashville, Tenn., to be towed from Pittsburgh by steamboat General Larimer, \$1,500 on each boat, separate insurance, with privilege of towing by some other good boat equal to steamboat General Larimer. One of the ice boats was sunk about three miles below Pittsburgh, and for this loss there was a recovery on the policy. The other three boats were taken in tow by the Larimer, but, owing to the insufficiency of her power, she was unable to manage them. One of the ice boats was run ashore, and lost, when near the head of Grandview island; the steamer then proceeded on her voyage with the two remaining boats, and, when off Line island, another of them was lost. For these losses two actions of covenant were brought in the District Court of Allegheny county. Defendant pleaded former recovery; plaintiffs replied it was on a separate covenant. To this defendant demurred, and the demurrer was overruled. Defendant's counsel asked the judge (Williams) to charge that "the policy declared on contained an implied warranty that the towboat was of sufficient capacity to manage and tow the ice boats." The judge declined so to charge. Verdict and judgment in favor of plaintiffs—in one case \$1,654.25; in the other \$1,636.25. Defendant removed cause to the Supreme Court, and the judgment of the District Court was affirmed.

Lowrie, C. J.: The two cases depend on the same principles, and we treat them together. Coal boats and ice boats on the Ohio river are not fit for navigation in the ordinary sense of "seaworthiness," for they are very unmanageable, and cannot be landed without great risk, except in an eddy, and with a clean and deep shore. Yet they are insurable for a voyage. . . . The law of such a case as this must consist of, or be derived from, the relevant customs of navigation on the river; and we have not learned, in our judicial experience, what those customs are, and have no evidence of them in the case. Ice boats, without the assistance of a towboat, are much more unmanageable than with it; and yet they are not treated as unseaworthy. Towboats may be intended only as a partial cure of this defect; and we find that the hands of the boats were with them. Considering this, and that this one boat was to tow four of such unwieldy craft, we should rather infer that no more was intended in this instance. (7 Casey, 446.)

In the Supreme Court there were two other cases on the same policy—ice boat to be brought down from Freeport to Pittsburgh by sweeps, and to be towed thence by steamboat. The pilot, instead of stopping at Pittsburgh, proceeded on by sweeps to a landing about three miles farther, in pursuance of a previous determination, and not to escape any damage insured against. Before arriving at this landing, the boat was lost by perils of the river. It was held that this was a change of the voyage insured, and discharged the underwriters.

The Merchants and Mechanics' Insurance Company followed next after the Western, but while going into liquidation decided to carry pending voyage risks into port, and time policies to their termination. Nearly simultaneous with this discontinuance, in the early summer of 1858, the Farmers and

Mechanics' was found to be too much embarrassed to continue as a local fire office. A project to continue the Merchants and Mechanics' by abandoning the mutual principle was also found impracticable. The indebtedness of the Farmers and Mechanics' was about \$100,000. It had, as conspicuous assets, about \$60,000 of protested paper and nearly \$50,000 of agents' balances.

With the company's funds increasing, it was determined by the Delaware Mutual to dispense with the \$100,000 guarantee note capital. August 11, resolutions were adopted to increase the capital stock in accordance with the provisions of a supplement to the charter, approved April 13. This supplement provided for the conversion of existing stock (par \$5) into new stock (par \$25) and the capitalizing of scrip. Payments on the new stock were received in old stock at the rate of \$6.25 per share, and also in cash, or in three-fourths scrip at par and one-fourth cash. Outstanding scrip amounted to \$225,890. Earned surplus up to 8 per cent. stock dividend was to be divided by the new arrangement among the holders of old and new shares, but new shares were excluded from participation in scrip dividends for profit. At the end of the official year—October 31, 1858—the assets of the company were \$698,804.70, apart from the guarantee notes, which were to be returned to the makers as soon as the risks taken in the period embraced in such notes should have terminated. With six months from September 6 to terminate before the expiration of the term for receiving instalments on the authorized stock subscription, the directors declared, November 10, 6 per cent. dividend on the original stock, with 6 per cent. on outstanding scrip; and 25 per cent. earned premium scrip dividend, participated in by holders of original stock and entitled policyholders.

The Atlantic Mutual went into liquidation in October. Hull risks were discontinued at the same time by the Great Western Insurance and Trust Company. The Quaker City engaged in all branches of marine writing, and, doing business on the stock plan, was offering to return 10 per cent. in cash of the earned premium of open inland policies. The Howard discontinued ocean marine risks altogether. The Eastern was venturing upon about the full schedule of maritime hazard. This company claimed \$25,000 cash capital December 31, and had \$161,550 at risk. By December 13, Jacob N. Keeler was president and Henry R. Foote secretary of the Safeguard. Henry A. Mott, of New York, who had been elected president September 18, resigned September 29, giving as his reason therefor: "the affairs of the company are not in such a condition as to warrant my further connection with it." In December, "\$171,200 of new securities" were substituted for original assets now "retired," and the new assets, real estate mortgages, were submitted to the comptroller of the State of New York, whose two examining and appraising commissioners valued the real estate mortgaged to the Safeguard at one-third more than the amount of the mortgages; and "the said mortgages are supposed to be first liens on the real estate therein described," etc. Whereupon the Safeguard's New York certificate was continued.

Commencing business April 15, the Safeguard had in force \$1,111,594 of fire risks December 31, and \$9,200 of inland navigation risks. Its income in



the period was \$37,397.33, disbursements \$31,217.94, with \$13,859.50 of premiums on undetermined risks, \$4,000 of unadjusted losses, \$3,228 of losses resisted, and \$2,791 other claims against it. By charging off 40 per cent. of premium on unexpired risks—running less than nine months at the maximum—the Safeguard showed a net surplus of \$33,844.27, and put itself in the creditable position of presenting a balance-sheet in nearly due form.

The average fire premium of the Fame in 1858 was 0.83 per cent., inland-marine 0.89.

Carrying over hull risks of 1857 into 1858, the Merchants' showed for 1858, premiums received \$88,603.22, losses \$74,442.15. Total earned premium and interest for 1857 and 1858 of the Union Mutual, \$502,660; total losses paid, returned premiums, reinsurances and expenses, \$546,780. With the current business of the Phoenix Mutual running rather more favorably than that of the Union Mutual, the Phoenix was enabled to declare a 6 per cent. scrip dividend on \$108,070 of premium earned in 1858. In the beginning of the year the Phoenix had an asset total of \$224,730, which was increased to \$233,489 by December 31. With reduction of assets as aforesaid, and other reduction of asset amounts, the Union Mutual had \$253,486 at the beginning of 1859. The American Mutual was yet in existence.

Early in 1859 the State legislature began another essay towards improving the insurance situation. A bill of twenty-six sections, applicable to Philadelphia and Allegheny county, was introduced by Mr. Thorn, but in the end was indefinitely postponed. At a meeting of the Board of Trade held March 28—two days before the final postponement of the bill—resolutions were, after discussion, unanimously adopted in favor of the bill. President Morton illustrated the position of the doubtful companies by citing the case of one which had assets largely in mortgages; two of such mortgages for \$10,000 had just been sold at auction for about \$600 each. The numerous bankrupt Philadelphia insurance estates had a ratio of actual to nominal value respectively less or more than such percentage. At the receiver's sale of the properties of the Importers and Traders', assets figuring in the statement at \$209,073.78, under the hammer of the auctioneer realized \$707. At the making up of the asset account of the Howard for date of January 1, 1859, the amount of \$601,307.89 in bonds and mortgages, stocks (with few bonds of incorporated companies), bills receivable and due from agents, was placed as an estimate at \$257,221.98. Outside of these assets the company appeared to have enough means with which to pay its December losses.

Still seventeen more insurance charters were enacted by the legislature this season, and approved—most of them, however, country mutuals. An act approved April 12, 1859, entitled To equalize Taxation upon Corporations, provided that all corporations, except banks of issue, "now liable for tax on capital stock, as also upon dividends, shall henceforth be exempt from any tax on dividends," and "all unsettled accounts shall be adjusted in accordance with the provisions of this act." (*Pennsylvania Insurance Handbook*, 161.)

Another attempt at fire and marine insurance began March 17. It was an organization called the Washington Fire and Marine Insurance Company—



Charles G. Imlay, president, O. C. Butler, secretary—acting under a charter of date of May 12, 1857. The figures of the paid-up capital were \$114,800. It insured "only against loss or damage by fire, on buildings, merchandize, household furniture; also on cargoes and freight to and from all parts of the world, and inland navigation and transportation." It perhaps never occurred to the parties so engaged, who proposed to insure "to and from all parts of the world," to question themselves as to their qualification to insure one hundred yards from their own office.

The Merchants' closed its doors in April, and the Continental had now gone out of sight.

September 3, 1856, James Given took out, through a broker, a policy on a vessel in the Merchants', "for account of whom it may concern," the premium to be paid in a note satisfactory to the company. The note was not presented, and the demand of the company for a delivery of the note or return of the policy was not complied with. October 17 the vessel was lost. Claim was made upon the company, and in the District Court, Philadelphia, a verdict was rendered for \$1,332.54. The defendant company taking out writ of error, the Supreme Court, March 15, 1859, decided that the insurance contract was complete.

*Per Curiam:* A conveyance of land is not void because the consideration recited as paid was not paid, and neither is a contract of insurance. The delivery of either is a completion of the contract of conveyance or insurance, and it cannot be rescinded by one party because of the non-payment of the consideration. For that, the party has an express or implied contract on which he can obtain redress. This is a simple case of mutual contracts, and neither is avoided by the breach of the other; but for each the law affords its appropriate remedy. The non-payment of the premium did not avoid this policy. Judgment affirmed and record remitted.

A reinsurance suit by the Delaware Mutual against the Quaker City, of Philadelphia, and the Commonwealth, of Harrisburg, Pa., was concluded in the District Court of Allegheny county, June 17. A cargo of cotton was insured in March, 1857, on a steamer from Memphis, Tenn., to Pittsburgh, Pa., and reinsured in the Merchants', of Philadelphia, the Pennsylvania, of Pittsburgh, and the two other companies named. The steamer was sunk at Portland, on the Ohio river, in consequence of coming into collision with another steamboat, and the damaged cotton was abandoned to the insurers. In the sale of part of the cotton, three promissory notes, at six months, of Joseph Ripka were received for \$2,527.99 each. One of these notes was sold by a bill-broker firm; the others were not sold, on account of very high rate of discount. Ripka subsequently failed, and the notes were not paid. The Quaker City and the Commonwealth adjusted the loss irrespective of the loss by the two Ripka notes; and the Quaker City paid \$2,500, and the Commonwealth \$2,858.14. But treating such notes as part of the loss, there were yet due by the Quaker City \$837.10, and by the Commonwealth \$1,146.37. The Merchants' Insurance Company paid its proportion of the entire loss, including that by the Ripka notes. On removal of cause to the Supreme Court, it was held that a reinsurer is entitled to the benefit of everything which reduces, or might reduce, the amount of loss to the original insurer; if the original or first insurer sell goods abandoned to it for notes instead of cash, and against

the expressed desire of the reinsurer do not turn such notes into cash, the reinsurer is not liable for the portion of the loss superinduced by such notes.

Vessel machinery as a maritime insurance risk distinct from the "perils of the seas" (and rivers), as such, was a matter of inquiry and decision by the Supreme Court of the State in July (*Western Insurance Company vs. Cropper*). The insurance was upon the hull, tackle, machinery and apparel of a steam propeller. A feed-cock burst and a bolt was broken out of the stripping-box, which caused the vessel to leak, and to prevent sinking she was run ashore, and thereby lost. Insurer's liability in respect to breakage or derangement of machinery had this limitation:—

It is understood that this company is not liable for any breakage or derangement of the engine, or bursting of boiler or any of the parts thereof, or for the effects of fire from any cause connected with the operation of the repairs of the engine or boiler, unless the damage be occasioned and the repairs rendered necessary by the stranding or the sinking of the vessel, after her engines and boilers shall have been put in successful operation. It is also understood that this company is not liable for fuel, wages and provisions, nor for any expenses of any delay consequent upon repairs to the hull, if such repairs are rendered necessary by breakage or derangement of machinery or bursting of boiler.

Strong, J.: It is not to be denied that the intention of the parties is far from being clearly expressed in this excepting clause. The controversy is, however, all in regard to the first exception, and we are of opinion that its purpose was only to relieve the underwriters from liability to indemnify the assured for broken or deranged machinery, and not to exempt them from the obligation to pay for a total loss, even though that loss could be traced back to the breakage of the machinery as its first cause. The exemption embraces three kinds of losses. First, breakage or derangement of the engines or bursting of the boiler or any part thereof; second, the effects of fire arising from certain causes; and third, fuel, wages and provisions, and expenses of delay consequent upon repairs to the engine, boiler or hull, if rendered necessary by breakage of the machinery. If it was the intention of the parties, by the first exemption, to except from the contract of indemnity all loss directly or indirectly consequent upon breakage, it would have been easy to have done so clearly by the insertion of two or three additional words. That the difference between damage itself and loss, as well as causing one, and the loss caused, was in the minds of the insurers, may be inferred from the fact that by the second exemption they have protected themselves against such consequential loss. They expressly provided against liability "for the effects of fire from any cause connected with the operation of (or) the repairs of an engine and boiler," but they expressly exclude effects of breakage or derangement of the engine or bursting of the boiler or any part thereof. The difference in the mode of expression is indicative of a difference of intention.

It is difficult, also, to account for the additional stipulation contained in the third exception, if the first was designed to embrace the consequences of breaking of the machinery. In that case, expenses of delay consequent upon repairs to the engine or boiler, or repairs to the hull, rendered necessary by breakage or derangement of the machinery, are twice excluded from the second. These things are but consequences of breakage. Why stipulate the second time for their exception, if they had already been excepted? No satisfactory reason has been given for it. Parties are not to be presumed to have intended mere repetition. It seems clear that something additional was meant, which had not before been excepted. To allow any force to the first part of the exempting clause, the first must be construed as extending only to immediate damage to the machinery. And it is a cardinal rule of construction that effect should be given, if possible, to every part of the instrument. The general provisions of the policy cover the whole loss, however occasioned. The underwriters limit the general words by stipulating that they are not liable for breakage, nor for expenses of delay caused by breakage, or by repairs consequent upon breakage. The exception itself raises an implication that for all other consequences of breakage, not mentioned, they were to remain responsible under their general covenant of insurance. This interpretation is consistent with all the provisions of the policy, and leaves no part of it without meaning. (8 *Casey*, 351.)

For the year ended October 31, 1859, the marine and inland losses paid by the Delaware Mutual (\$258,995) were 69.8 per cent. of earned marine and inland premium; and fire losses paid (\$28,172) were 27.3 per cent. of earned fire premium. Dividend of 8 per cent. was declared upon capital stock, 6 per



cent. on the scrip, and 25 per cent. of earned premium was issued as scrip dividend to all insured members whose shares of profit were \$25 or above, and to remaining holders of original stock. The capital stock of the company was now composed of 13,835 shares at \$25 per share, and 614 shares of original stock at \$5 per share.

With changes of administration, the Manufacturers' was discontinuing marine and inland risks.

By December 31, the Washington had \$396,378 of risks in force, and had received \$19,096.22 of cargo and freight premiums, and \$5,243.94 of fire premiums; total earned premiums and interest \$21,396.61, disbursements \$12,601.66. (Losses paid, all marine, \$5,863.09.) A stock dividend of 6 per cent. was declared. Up to this date the Corn Exchange had received \$79,448.16 of marine and inland premiums, and \$17,822.27 of fire premiums; paid of its losses \$28,768.09 marine, and \$4,034.62 fire. The Eastern had \$140,000 of risks in force, and had received during the year \$14,426.97 of premiums, and paid \$5,203.03 for losses.

In the spring of 1859 the Great Western amalgamated with the Farmers' Union, of Bradford county, Pa., a fire office. Later in the year this company applied to the newly created New York State insurance department for authorized admission to do business in the State of New York. Its application was refused by Superintendent Barnes. In his first report the New York superintendent gave these reasons for his action:—

The Great Western Insurance and Trust Company of Philadelphia, as appears by its annual statement on file, has \$43,112.29 of bills receivable, and \$15,811.89 of loans made by the company, besides other items, which the superintendent could not regard as legitimately constituting actual capital. On the 5th day of July, 1859, a majority of the board of directors of this company made an affidavit to be filed in the auditor-general's office in Pennsylvania, for the purpose of taxation, by which they estimated the actual cash value of the stock of said company on the first day of November, 1858, at \$5 per share on \$223,800, which would amount to only \$22,380. The annual statement of said company, filed in this State, represented the assets of the company on the 31st day of December, 1857, and on the 31st day of December, 1858, as amounting to above \$200,000, over and above all debts and liabilities. Such discrepancies seriously affect the credit due to a deliberate statement made under oath, and it is hoped some explanation can be given of these apparently irreconcilable documents.

Other Philadelphia fire-marine companies admitted by the comptroller did not seek from the superintendent renewals of certificates, and as the year closed the Safeguard went into the hands of a receiver.

In December, the Legal and Insurance Reporter, a semi-monthly journal, appeared, published by James Fulton & Co. James Fulton, a lawyer and fire insurance adjuster, was the editor.

In January, 1860, there yet remained eighteen companies writing marine and inland, or fire-marine and inland, or fire and inland policies—three of the first, twelve of the second, and three of the last; and one of the last, the Exchange Mutual, was becoming a fire office exclusively. Five of the eighteen were near immediate dissolution, and others were soon to follow. A bill passed the State house of representatives, entitled An Act relating to Insurance Companies and Associations in the City and County of Philadelphia



and County of Allegheny, but it was lost in the Senate. The first draft of this bill was made by Secretary Moon, of the Commonwealth Fire, and it was favored by a portion of the more responsible underwriters. It made the auditor-general a State insurance supervisor, with power to declare a neglecting or statement-refusing company as having forfeited its charter, and then "provided that such forfeiture be declared by the proper court of the county," etc.

In April the Great Western made an assignment—E. W. Baird, assignee. Liabilities were estimated at \$200,000. As to any possible value of the assets, it was to be considered that companies of such character generally continued as long as there were any resources available to meet current demands. In the case of the Great Western, three of the directors, with C. C. Lathrop at their head, made a "protest" against the assignment, as leading to a "sacrifice of the assets," etc., and declaring: "Third, that in the event of the closing of the business of the company, that it is our first duty to notify the insured and cancel their policies, and to provide by personal negotiation of a duly authorized party for the settlement of the indebtedness of the company by its assets, to the best that can be done to secure the same." In May the Howard began to wind up, with an expectation or a promise of a *pro rata* return of premiums on unexpired policies.

After a varied joint-stock and mixed mutual practice in different transitions from 1839—fire and fire-marine—the Columbia Mutual had, to use a mercantile phrase, "closed out" its business by the summer of 1860.

At this date the Pennsylvania Insurance Handbook, by J. A. Fowler, was published by Whiting & Co.; 12mo., 253 pages. It contained an imperfect sketch of the Rise and Progress of Insurance in Philadelphia, tables of existing local companies and agencies, statutes, ordinances, regulations, premiums, policies, biographies, etc. Perhaps the insurance animus of the time was somewhat disclosed in three brief essays entitled, 1, The Social Claims of Insurance—Its Necessity and Advantages; 2, Legal Duties and Responsibilities of Agents and Brokers; 3, General Suggestions to Agents (as solicitors), with an argument for life insurance (mutual) in form of dialogue, under the title, Why You Should Insure Your Life. To the historic sketch (which had some errors in data), were added compilations of facts and incidents designed as something of a history of a few companies. The Rise and Progress of Insurance was a glance at the irregular growth and retarding fluctuations, with ground slowly gained, impending bankruptcy overcome or not overcome, and progress made by advancing and falling back in alternation. It was an attempt to narrate the outcomes of a method over whose practitioners there sits a rigorous judgment which decides remorselessly by the rule: Whoever fails is condemned. The narrative proceeded from Copson's effort to provide local personal marine underwriters in 1721 to the twenty-one corporate charters enacted by the State legislature whose session closed in 1860. Among such enactments of opportunities beyond capabilities, some provided for the assumption of the hazards of disablement and death in traveling, general personal accidents, and also of payment of rent incomes, promissory notes, interest on bonds, and debts in general, by premium as a sufficient

quantity wherewith to provide for the jeopardy, or by premium aided by collateral. Unsuccessful attempts were made to organize under two financial guarantee charters.

Companies, however, were rather going than coming; projectors under two or three unused fire-marine charters realized that the time was not opportune. The Corn Exchange refuted, in the early fall, its previous published statements by making an assignment to Victor Guillou, September 23. It had, at its termination, about \$1,000,000 on marine risks and \$200,000 on fire risks outstanding. In November the Hope Mutual was winding up, cancelling its policies and making settlements for losses and unearned premiums.

So there were left three Philadelphia mutual marine and inland companies, eight fire-marine and inland, and one fire and inland. There were three fire-marine agencies, viz.: The Commonwealth, of Harrisburg, H. E. Rood; the Pennsylvania, of Pittsburgh, H. E. Rood, and the Springfield, of Massachusetts, Boswell & Wilson;—also one fire and inland agency, the Republic, of New York, R. O. Lowry. The Board of Marine Underwriters—John R. Wucherer, president, Arthur G. Coffin, vice-president, Captain T. Rogers, secretary—was composed of the three mutual marine and inland offices, the three oldest fire-marine and inland offices, and one recent office, the Anthracite. The Board of Surveyors was made up of these “experienced nautical men”: Captains C. Gulagher, Enoch Turley, John Gallagher, Thos. Munroe; and with such board should be named the Surveyors of Damaged Goods and Vessels, appointed by the United States District Court, who were at this date Captains Silas Pedrick, C. Gulagher, Charles Tisdale, T. Rogers, John Gallagher, C. F. Brevoor. The following rules of the United States District Court were in force with respect to marine surveys:—

1. There shall be annually appointed by the court a competent number of persons, of experience and skill, to be surveyors, who shall continue to be such until superseded; and all writs of survey issuing under the sanction of the court shall be directed to them by the title of the “Board of Survey of the Admiralty.”
2. Writs of survey may be issued by the clerk, at the instance of any person or persons interested in vessels, cargo or freight, whether as owners, masters, consignees, insurers, or otherwise.
3. All applications for the writ of survey shall be in writing, designating the subject of survey, whether general as to vessel or cargo, or special as to some part or parcel thereof; and declaring also the character of the right or interest which the parties applying have in the subject-matter.
4. Every writ of survey shall be executed by at least three of the surveyors; and, unless otherwise directed by the court, the surveyors shall act in succession in the order in which they are named in the record of their appointment, and the clerk shall endorse on the writ the names of the surveyors who are to act. No member of the board shall act as a surveyor or appraiser of damages, except in pursuance of a writ duly issued.
5. Before proceeding to execute the writ of survey, the acting surveyors shall give notice of time and place to such parties in interest, or their representatives, as may be known to be within the limits of the port or city.
6. The acting surveyors may call to their aid, for the time, any competent and disinterested experts; but such experts shall not be chosen upon the nomination of any party having an interest in the subject of survey.
7. The return to the writ of survey shall be made with all convenient speed, and, at farthest, within one week after the discharge of the vessel. Its purport shall not be made known until it has been filed with the clerk.
8. The return shall set forth the time, place and manner of the execution of the writ, the names of the parties in interest who had notice thereof, and the names of those who



were present thereat; together with the names, places of residence, and occupations of the experts, and of the witnesses, if such there were.

9. The return shall declare, with such precision as the circumstances may allow, the character and extent of the damages, if any, and the money equivalent of the same; and it shall further declare the cause or causes of such damage, so far as it has been found practicable to ascertain the same.

10. The return shall be signed by all the surveyors who have acted, and shall be sworn to or affirmed to by them. If the surveyors who have acted shall differ in opinion (but not otherwise), they may make separate reports. Supplementary reports may be made upon leave specially granted by the court.

11. The form of the writ of survey will be prescribed by the court. Forms of return will be furnished in blank by the clerk.

12. There shall be appointed, from time to time, by the court, one person to be the register of the Board of Survey, whose duty it shall be to receive the writs of survey, noting the time of receiving them; to give notice to the acting surveyors whose names may be indorsed thereon; to aid them, if required, in engrossing and transmitting their returns; to collect and make distribution of the surveyors' fees and emoluments—first defraying therefrom the necessary expenses of the board, and keeping accounts of all such collections and disbursements for the inspection of the several surveyors; and for the better performance of his duties, he shall attend at the office of the board during the ordinary hours of business. The compensation of the register shall be the same as that of a surveyor.

The sea predominates and "commerce is king"; but the sea, as leading in insurance, was waning, though, perhaps, in the progress of the sixth decade of the century, it became otherwise in Philadelphia than what has been said at the beginning of it, namely: "at the close of the fifth decade of the century it was manifest, notwithstanding the defective statistics, that the values covered by Philadelphia fire policies were in excess of those covered by marine policies."

In 1860 the Insurance Company of North America paid \$241,299.88 for marine losses, and \$37,445.75 for fire losses, but in the year it wrote \$18,325,515 of marine insurance and \$21,113,567 of fire insurance, and a writing of equal amounts of fire and marine risks would always leave fire insurance in force to the greater extent. This company's position was something of an epitome of the relative situation of fire and marine insurance nationally. Loss of property by fire disaster was yet less than loss of property by marine disaster, though the national ratio of fire loss was high, and the national difference was not in the degree occurring in the case of the Insurance Company of North America; but this company gaining in its fire writing upon its marine writing, corresponded to the national insurance position.

So the Insurance Company of North America, a marine office which had issued fire policies for sixty-six years, attained to the condition of the time. It confronted a new insurance era, and was qualified to take the initiative as circumstances should determine; but the past was not encouraging. Every advance was a conflict, a cost, a jeopardy. The successful insurance company lives, not by escaping disaster, but by overcoming it. The Insurance Company of North America was an agency office in 1808; in 1860 it had but ten agents. It had both gone forward and been driven back in this period of more than half a century, but its capital stock shares were selling in the market at 75 per cent. above par.

At the beginning of 1861 the Insurance Company of the State of Pennsylvania reported an asset total of \$507,094.61, against \$438,792.77 by report for



previous year. Two Philadelphia marine-fire offices had been admitted to do business in the State of New York in 1860 by the State insurance department, viz., the Insurance Company of North America and the Delaware Mutual Safety Insurance Company. Aggregate assets of the former, December 31, 1860, were, with market prices of securities reduced by the political troubles, \$1,253,702.27 (interest receipts in the year \$56,947.54); of the latter, the aggregate assets were \$853,375.84—interest receipts \$33,539.98. Total income of the former in 1860 was \$396,138.24, disbursements \$396,444.93; of the latter, the total income was \$275,849.37, disbursements \$349,426.63.

The Delaware Mutual wrote in the year \$22,328,533 of marine risks and \$17,352,922 of fire risks—a very small proportion of the latter having more than one year to run. So showing, as compared with the Insurance Company of North America, more marine writing and less fire writing. A net surplus account was not yet in vogue, but charging the Insurance Company of North America with 100 per cent. premium liability on unexpired marine policies, and 50 per cent. on unexpired temporary fire policies, the net surplus of this company was about \$518,663.65; charging the Delaware Mutual with outstanding scrip as liability, in addition to the other items of liability, its net surplus was, approximately, \$133,414.85. The Delaware Mutual had now \$164,835 of scrip issued to policyholders outstanding. There had been, in all, \$45,815 of scrip issued to stockholders, all of which had been redeemed and cancelled. Average percentage of scrip dividends declared to date was 10.28; total to policyholders \$365,260, of which \$200,425 had been redeemed.

In the matter of the schooner *Orb*, of Baltimore, the new trial ordered by the Supreme Court resulted in deciding the liability of the defendant company for the second disaster. On hearing of the first disaster, the plaintiffs, Winter, Latimer & Co., by letter of September 15, 1851, abandoned the vessel to the underwriters; and on hearing of the second disaster, by letter dated December 6, following, abandoned to the underwriters both *vessel* and *cargo*. The cargo policy issued by the Delaware Mutual Safety contained the following stipulations:—

And in case of partial loss by sea damage to dry goods, cutlery or other hardware, the loss shall be ascertained by a separation of the damaged from the undamaged portion of the damaged package or packages respectively, and the sale of the damaged portion or portions only, and not otherwise; and the same practice shall obtain as to all other merchandise, so far as practicable.

It is also agreed, that bar, bundle, rod, hoop and sheet iron, wire of all kinds, tin plates, steel, madder, sumac, wickerware, and willow manufactured or otherwise, cheese, salt, grain of all kinds, seeds of all kinds, fruits, whether preserved or otherwise, dry fish, vegetables and roots, prepared or otherwise, rags, hempen yarn, bags, cotton bagging, and other articles used for cotton bagging, pleasure carriages, household furniture, musical instruments, looking glasses, skins and hides, and all articles perishable in their own nature, are warranted by the assured free from average (except general), unless it happen by stranding, and amount to twenty per cent. on the whole aggregate value of such articles; hemp, leaf tobacco, tobacco stems, bread, Indian meal, matting and cassia (except in boxes), free from average (unless general), under fifteen per cent. on the whole aggregate value of such articles; coffee in bags or bulk, pepper in bags or bulk, rice, sugar, flax and saltpetre, free from average (unless general), under seven per cent. on the whole aggregate value of such articles.

There was evidence that storage could have been had for the cargo upon the *Orb*'s putting into Rio the second time, and that advices could have been

received in a reasonable period by the shippers and insurers in the United States. Much of the cargo was of such a character that it could have been reshipped thither, and part of it—*i. e.* the boots and shoes—were sent back to Baltimore in June, 1852. The goods were valued in the policy at \$17,000, and produced by the sale at Rio only \$5,066.36. The jury gave a verdict in accordance with the plaintiffs' claim for the full amount of the partial loss to the vessel arising from the first disaster, and for a subsequent total loss of the same, less the proceeds of sale. They also gave a verdict for a total loss of the entire cargo, less the proceeds of sale.

Judgment being entered upon this verdict, the case was certified to the court in banc, where several matters were assigned for error by the defendant in the suit.

Thompson, J.: . . . . . : After a survey held, the vessel was condemned as wholly unseaworthy, not worth repairing, and recommended to be sold. That this was a case for abandonment as for total loss of the vessel, is certain, and is not disputed here. It was also in proof that the cargo, an assorted one, containing fruits, fish, oysters, and many other perishable articles, was much deteriorated, and on a survey at the request of Maxwell, Wright & Co., was recommended to be sold. Furthermore, it appeared that no shipment, either in whole or in part, of the cargo could be had from the port of Rio to Portland, Oregon, the place of its destination. This, the plaintiffs contended, was a proper case for abandonment; not on the principle, however, of sea damage to the cargo, but upon a principle which they claim justifies it without this element. Was it a case, therefore, for abandonment as for a total constructive loss? That it was, I think the authorities will abundantly show.

If the abandonment was complete, the subsequent acts of the master could not deprive the insured of the benefits resulting from it; he was thenceforward the agent of the underwriters, and bound to use diligence, skill and care toward the interests of all concerned.

The memorandum clause in policies of insurance provides an exemption from liability, unless the damage amounts to a certain specified sum, and stipulates that certain articles shall be free of general [particular] average, except in particular cases of injury, such as stranding. It exists in this policy, and under the clause the defendants claim to be exempt from liability, because the loss was not from stranding. It is well known that the practical use of the clause is to operate on certain goods more susceptible of sea damage than others. Goods so susceptible are so well known, and the ordinary injuries from sea damage so easily estimated, that insurers do not take the risk of all damage, and hence they usually fix a limit below which they will not be answerable. The usage is universal both in Europe and America, with but slight differences in form or substance. It is apparent from this statement in regard to the use and object of the memorandum clause, that its application is to partial, and not total loss.

The loss of both vessel and cargo may be treated as total, the evidence being believed, and both belonging to the same party. The doctrine of contribution in payment of the bottomry bond does not arise in that form here in which it might, and undoubtedly would, in cases of partial loss or between separate owners.

It was truly said by the counsel for the defendants in error, that the provision in a policy for ascertaining the loss by a separation of damaged from undamaged articles, applied only to the cases of partial, and not to a total loss, constructive or absolute; for so it expressly appears in the conditions attached to the policy. Discovering no error in any part of the record, the judgment is affirmed. (2 Wright, 176.)

More of the fire-marine speculations called insurance companies reached their end. Of such, in fact, the fire-marine atmosphere was becoming totally clear. Borrowing what it could upon pledge of whatever securities it might have possessed, in order to pay claims from which it could not escape, the Quaker City stopped in January, 1861, and there was a subsequent appraisal of assets at \$28,469.60. The Eastern immediately followed—John McIntire, assignee—and its properties were counted at \$2,525.38. E. G. Cooper



was named as assignee of the Neptune, a sort of adjunct of the Quaker City. The indebtedness of the Washington, collapsing with these, was named at \$10,000, with ability to discharge such liability and make a return on the capital stock. With these discontinuances, there remained in existence, of fire-marine companies only the four in the membership of the Board of Marine Underwriters. In respect to realizations in the numerous bankrupt insurance estates with which the city was supplied, there was a question with the assignees between the cost of litigation and possible recoveries by suits upon notes,\* etc. In part, however, the situation was indicated by the following, extracted from the Insurance Intelligencer of date of February 2, 1861:—

Some two years or more ago an insurance company failed in this city, after running what might be called a splendid race of large pretensions upon a small basis as to capital. At the end of this race the company made an assignment, being largely and hopelessly involved, although still representing that there remained a considerable amount of assets which would in due time be forthcoming to meet claims.

At the time of the failure there existed considerable excitement upon the subject, but soon, as the failure was supposed to be a bad one, the matter died out, and little or nothing more was said about it. We now learn that so little attention has been given to the settlement of the affairs of this institution, that even the assignee, who was appointed for the purpose, never gave the proper security, and knows little or nothing about it, and that those who had previously controlled the company took all into their own hands, managed it in their own way, and probably for their own special benefit.

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\* In the supplement to the act incorporating the Western Insurance Company was the following:—

SEC. 11. The company, for the better security of its dealers, may receive notes for premiums in advance, of persons intending to receive its policies and may negotiate such notes for the purpose of paying claims or otherwise, in the course of its business; and on such portions of said notes as may exceed the amount of premiums paid by the respective signers thereof at the successive periods when the company shall make up its annual statements, and on new notes taken in advance thereafter, a compensation to the signers thereof at the rate to be determined by the directors, but not exceeding five per cent. per annum, may be allowed and paid from time to time.

District Court. Stroud, J.: George McHenry and John M. C. Smiley, assignees of the Western Insurance Company, *vs.* C. J. Fell & Brother. An action of trover to recover damages for the conversion of a guarantee note of \$4,000, drawn by defendants in favor of the Western Insurance Company. It appeared that the company pledged this note with another party as collateral security for the payment of their own note of \$3,000. At maturity the defendants took up this note, and at the same time obtained possession of their own note for \$4,000, which they refused to surrender until the insurance company's note which they held for \$3,000 should be paid. Verdict for plaintiffs for \$972.

Error to the District Court. Read, J.: The real merits of this case have been settled by this court in *Craig vs. McHenry*. (11 Casey, 120.)

On the 8th of March, 1853, a resolution was passed by the board of directors in these words:—

*Resolved*, That for the better security of its dealers, this company will receive, under the eleventh section of the supplement to the charter, notes for premiums in advance to an amount not exceeding \$150,000, payable twelve months after date, which shall be liable only for losses *during* the period for which the notes are given, and provided the other assets of the company shall not be equal thereto; and then be allowed and paid to the signers thereof, as a full compensation, five per cent. under the provision of the said section.

Under this resolution, extended to subsequent years, agreements were entered into, and notes given by the subscribers thereto as agreed, for the years 1853, 1854, 1855, 1856, and 1857—the subscribers to the last being seventeen in number, and the amount subscribed \$55,000; but all of these subscribers did not give their notes, reducing the amount for which notes were given to \$45,000. The defendants in this suit had subscribed all the several agreements for each year, and their notes had been delivered up to them, and the guaranty commission of five per cent. paid on each note to them, until we come to the present note of the first of April, 1857.

The agreement under which the present note was given reads thus: "We, the undersigned, agree to give our notes dated the first day of April, 1857, for the sums set opposite our names, under and subject to the terms, conditions and agreements contained in the supplement to the charter of the Western Insurance Company, in the eleventh section of the act of 9th April, 1849, and the resolution of the board of directors of said company."

The note therefore was liable for losses occurring during the period for which the note was given, to wit: for twelve months after its date, the first of April, 1857; and the losses in that twelve months outstanding and undisputed were between \$30,000 and \$40,000, and no assets were available for these losses, except the guaranty notes. . . . Judgment affirmed.



But the assignees were otherwise complained of. In the Nisi Prius Court there was an application for a preliminary injunction to restrain the assignees of the Merchants' Insurance Company from negotiating or disposing of certain securities named as part of the assets of the company. It was alleged that previous to the assignment the assets of the Merchants' amounted to over \$85,000, but immediately afterward it was discovered that these assets had all disappeared, and the charge was made in the bill that they were fraudulently disposed of by the defendants. The application was granted.

## CHAPTER XI.

*The War for the Union—Confederate Letters of Marque—President Lincoln's Proclamation relative to Confederate Privateers—Warranty against Loss by Confederate Captures and Restraints—Provisional Ratings for the War Risks—A Five Year Agency License—Unauthorized Marine Agencies—Confederate Captures—Advance of War Rates—The Underwriters' Annual Register—Trials of Captured Confederate Privateers—A Falling off in the Marine Business—The Question of Premiums as War Prices—The American Exchange and Review—Revival from the Temporary Commercial Depression—The Privateer Steamer Nashville—Rates for Blockade Running—Pennsylvania Insurance Legislation—Federal Insurance Taxation—Captures by the Cruiser Alabama—Death of William Martin—Business in 1862 of Philadelphia Marine-Fire Companies—Peace Risk lost through War Peril—Lost by Act of "Enemies"—Liability of Directors of the Fraudulent Quaker City—Extending Depredations at Sea—Internal Revenue Office Rulings and New Federal Taxation—The Marine-Fire Offices in 1863—The Phoenix Mutual resumes the Writing of Fire Risks—Losses by Confederate Captures—The Transfer of Mortgages on the Amalgamation of the Farmers' Union with the Great Western—Capture by Confederate Privateer within Policy exception—Additional Taxes for State Purposes—The Ten Per Cent. District Attorney Supervisions—The Federal Revenue Act of June 30, 1864—Federal War Vessels dispose of Confederate Privateers—The Delaware Mutual, the Insurance Company of North America, and the Union Mutual in 1864—The Act of March 3, 1865, amendatory of Internal Revenue Act of June 30, 1864—Whole-State Pennsylvania License—Timed Policy and Seaworthiness—Peace—The Marine-Fire Insurance Situation—New York Agency, Insurance Company of the State of Pennsylvania—The Union Mutual writes Fire Risks—Monthly Premium Returns to Federal Assessor—Decline of American Marine Underwriting—Pennsylvania Insurance Tax Collections and Agency Prohibitions—A Captured Blockade Runner—Maritime Disasters maximizing in 1866—A Guaranty Note as a Litigation Maker—Extended Application of the Act of April 9, 1856—Decision of the Internal Revenue Department as to Stamp Requirements—The Fame discontinues Inland Marine Risks—The Guardian Fire and Marine Insurance Company—The Position of the American Mutual—A State Deposit Law—Codifications and Amendments of Statutes—Rules of the Auditor-General's Department in granting Licenses—The Pennsylvania Insurance Digest—Moving towards a State Insurance Standard and Department—Cohen's Philadelphia Underwriter—Special Federal Tax on Insurance Individuals—Limitation vs. Elaboration of Taxed Subjects—The Phoenix Mutual and the American Mutual withdrawing—Last of the Distinctive (Philadelphia) Marine Underwriters—The Charters granted by Courts of Common Pleas—Removal of Specie Standard in Payment of Capital Stocks—"Certificates of Insurance payable in London"—More Marine and Fire Comparisons—The Philadelphia Board of Marine Underwriters in 1870—Change in Federal Taxation—The Port in 1870—Governmental View of Subrogation—A Prospective State Insurance Department—Transferred Policy and Attaching Creditor—Increase of Marine Premium and Greater Loss Increase—Repeal of Stamp Duties. (1861-1872.)*

As the fire-marine atmosphere became cleared of fraud, it was manifest that whatever new ventures might be undertaken, they would scarcely be in the

marine direction. Something of insurance quietude now ruled, shadowed, more or less, with distrust; but the country was on the eve of war—in fact conflict had begun. President Lincoln, April 15, 1861, issued a proclamation, calling upon the governors of the several States for a force of 75,000 militia, to serve for three months, and assist in reoccupying the forts, arsenals and other property which had been wrested from the government by seceding States.

April 17, proclamation offering letters of marque and reprisal was made by Jefferson Davis, president of the Southern Confederacy, to commission private armed vessels to cruise against the commerce of the union States; interests in the captured property to be decided by "the proper court in the Confederate States." April 19, the president of the United States proclaimed that any person molesting, under such authorization, or any other pretence, "a vessel of the United States, or the persons or cargo on board of her, will be held amenable to the laws of the United States for the prevention and punishment of piracy." Blockade of Southern ports was ordered the same date, first from South Carolina to Texas inclusive. The status as belligerents of the States at war against the Federal authority was not defined, but the prominent aspect as to the hazard of the commerce of the union States was the opening of neutral ports to the prizes in possible Confederate captures. For breaches of neutrality, however, the underwriters had a recourse in the principle of subrogation to the rights of the insured when the despoiler indemnified the despoiled; but though this tended, as enlarging salvage, to reduce rates, and somewhat made ventures acceptable which would have otherwise been rejected, the history of remunerations for commercial spoliations was at hand, and national honor was a risk to be taken into the account.

In past marine war risks the experience of Philadelphia underwriters had not been favorable, but such loss was partly retrieved by restitutions made by England, France and Spain; still the money due by the United States under the terms of the treaty with France at the beginning of the century yet remained unpaid.

"Men-of-war" and "enemies" had disappeared from among the "adventures and perils" assumed by the Philadelphia marine policies, and it was provided that "the company shall not be liable for any claim for or loss by seizure, capture or detention, or the consequences of any attempt thereat." In the emergency which had now arisen, such exemption took the form of this specific endorsement:—

Warranted by the assured free from loss by seizure, capture or detention, by any armed vessel, or the consequences of any attempt thereat; and from riot or civil commotion, or any other hostile act on the part of the government or people of the revolted States of the United States of America.

But the jeopardy from Confederate cruisers could not be ignored, and provisional ratings were adopted for policies with such warranty as above waived, "in so far as relates to the revolting States." At Lloyds, London, early in May, the war premium on American vessels varied from  $\frac{3}{4}$  to 2 per cent. There were, at the time, reports of California bullion on its way from



Panama to London, diverted from New York by fear of capture. By United States' writers the war risk, as involving additional premium, was at first rated as about itself equal to the peace risk, then at one per cent.; but what was to be tested was the bearing of changes in navigation and the swiftness and means of communication upon privateering, and the ascertainment of danger as near or remote. The writing of the war risks rested upon alertness and daily, and sometimes hourly, intelligence. The Philadelphia marine policy yet insured against "pirates," but the marine underwriter comprehended that this was not the hazard he was to encounter.

With war raging, but fraudulent Philadelphia companies disappearing, the Philadelphia agencies were negotiating for a five years' lease, and May 1, a bill was approved which was to apply only to such non-State companies as should have an agency in the city. It was entitled An Act relating to the Collection of Taxes on Foreign Insurance Companies. For the year ended November 30, 1860, such agencies had paid to the State on premiums and for license fees, \$20,486.98. The new enactment provided that any fire, marine, inland or life insurance, trust or annuity company of other State or nation, which should have established an agency under the act of April 9, 1856, and the supplement thereto, for three years preceding, "may, at any time after the passage of this act, receive from the auditor-general a license to transact business within this commonwealth for a space or time or period not exceeding five years." The terms were:—

That such company, association, firm or individual shall, at the time of receiving such license, pay in advance to the treasury of the State, for the use of the commonwealth, a sum equal to the annual sum required to be paid upon the granting and renewal of the license in each county in which they shall transact business, as specified by the fourth section of the said act of 9th of April, 1856, for every year for which a license shall be granted under the provisions of this act, and shall likewise pay in advance for every year for which a license shall be granted under the provisions of this act, a sum equal to three per cent. on the dollar on the average amount of the premiums, gross sum paid for annuities, and commissions for executing trusts, annually received at such agency or agencies within this commonwealth during the next three preceding years for which a license had been granted to such company, association, firm or individual.

In case of subsequent excess of annual premium receipts, like rate was to be paid on such excess.

Commissioned attorneys were less required in marine than other forms of insurance, and legally authorized marine agents were, and continued to be, exceptional. In lieu thereof, local correspondents were established by two or three New York marine offices, who forwarded applications either in evasion, or defiance, of the State law.

Hostile movements in the contest now opening were as early on water as on land, and by the close of May, twelve captured ships, two barques, one brig, and five schooners (including in the last the *Ella*, of Philadelphia,) were run into New Orleans, and sold by the Confederate States under a decree of the Confederate Admiralty Court. June 7, the one per cent. extra rate for vessels leaving the port of New York was advanced by the New York Board of Underwriters to 5 per cent., but such advance being met by the indignant protests of shippers and merchants, the advance was limited to 2½ per cent.

until further developments as to grading different passages.\* Necessarily the Philadelphia practice conformed to the New York arrangement.

The Underwriters' Annual Register—J. A. Fowler, editor, Whiting & Co., publishers—appeared in the summer of 1861. Its title page indicated its object and character; such Register "Containing an exhibit of the financial condition and business position of all companies issuing policies of insurance in the city of Philadelphia; embracing both Pennsylvania corporations and corporations represented by agencies."

In September, the ship John Carver, from Philadelphia for Key West, was captured and burnt by the privateer Jeff Davis. Trials of captured privateersmen, on the charge of piracy, were begun in October in New York, Judges Nelson and Shipman (fifteen prisoners), and in Philadelphia, Judges Grier and Cadwalader (one prisoner). The commission of Jefferson Davis could not be admitted as a defence against the charge, as the United States courts could not recognize such an authority until the government had done so. The Philadelphia jury convicted; the New York jury did not agree. Subsequently the captured privateersmen were placed upon the footing of prisoners of war. The writing of marine risks was largely diminishing, when, at the close of November, intelligence of the arrival of the steam privateer Nashville at Southampton, England, caused another flurry. The New York board again put up the war rate to 5 per cent., which, under the pressure of opposition, was withdrawn as to vessels on the berth at New York (for which the ruling war rate was now 2 per cent.), but was maintained as to bottoms in European waters at date.

The aggregate losses of American vessels, and foreign vessels trading to American ports, decreased in 1861, being \$19,582,200 on hulls, cargoes, freights, against \$27,341,000 the previous year. This decrease was from diminution of shipments, and prominently from the cessation of the imports and exports of the Southern States. The Delaware Mutual wrote \$11,877,373 of marine risks in 1861, against \$22,328,533 in 1860; the Insurance Company of North America, \$12,337,933 net in 1861, against \$17,474,320 net in 1860. Assets of the three exclusively marine insurance companies of the city were necessarily again falling off; premiums of the Union Mutual in 1861, \$180,005, against \$240,456 in 1860; of the Phoenix Mutual, \$102,679 in 1861, against \$140,121 in 1860.

Insurance journalism was continuing, but its opportunities were limited, and it was not developing in skillfulness according to the measure of its subject

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\* To rail at prices is an act in which the mere trader will be contradistinguished from the actual merchant; meaning by the last term "one who *carries on* commerce." There was an exhibition of indignation by shippers at the proposed 5 per cent. advance which was both superfluous and ridiculous. The underwriters were charged with being either needlessly frightened or with taking advantage of the excitement of the time "to shave their customers." It was certainly rather normal than otherwise for the insurer to be alarmed at a danger which he was to encounter and could not measure, yet as no attempt was made to introduce the marine rates imposed during earlier wars, when 10 per cent. was rather a minimum than even an average rate, he was not shown as evincing an inclination to over-state the marine situation. Further, if the enhanced peril were but trifling, there was no great need for the shipper to seek other guaranty than against the ordinary marine risk; but, preferring full protection, as mutual insurance predominated in New York marine writing, any excess premium charge would be adjusted by dividends on net earned premiums.



and the demands of its office. Tuckett's Monthly had passed into the hands of James McIver, who published it for a brief period to its termination, as the Commercial and Insurance Journal. The purpose to continue the Underwriters' Annual Register was relinquished, and the American Exchange and Review, an octavo monthly miscellany, appeared in February, 1862, with the same editor and publishers as the Annual Register. In this magazine, as it began, insurance was limited to but a single department. The title named it a "Journal of Finance, Insurance, Manufactures, Patents, Trade, Commerce, Mining and Railway Intelligence, Art, Joint-Stock Corporation Interests, Science, General Information," and further, as "An Expositor of Social and Economic Science." With so many topics, necessarily resulting in cursory treatment of each, all so applicable, ultimately began to be treated in their collateral relations to insurance.

In the temporary depression produced by the outbreak of the war, maritime insurance was affected more than other departments of underwriting. Early in 1862 the steamer Nashville appeared in the West India passages, and the schooner Robert Gilfillan, from Philadelphia for Cape Haytien, was captured by this privateer and burned in March; but though the marine writing was obstructed, losses tended towards a low ratio, and rates of dividend did not, as a rule, diminish with offices writing marine risks. Losses on the St. Lawrence and the lakes were reported for 1861 at \$301,625 on steamers, and \$564,722 on sailing vessels. In March a larger number of vessels arrived at the wharves of Philadelphia from foreign ports than in the same month for ten years, while in Europe, on goods on steamers designed to run, or to attempt to run, the blockade of Southern ports, the war premium was from 15 to 20 per cent.

A bill to substitute for the 3 per cent. premium tax, heavy county agency license fees—the highest, for example, being, Philadelphia, \$1,000 for non-American company, \$400 for other-State company—was defeated in the State house of representatives after passing the senate. An act, of few words, was approved May 11, to enable agents to acknowledge their bonds before any alderman, etc., competent to take acknowledgment of deeds; and of the same date was a brief supplementary act changing Section 17 (about fine, imprisonment and restitution,) of the general incorporation act of April 2, 1856, according to the following insertion as shown by italics:—

If any director, officer, *agent or other person connected with or doing business for or with* any of said companies, shall fraudulently embezzle or appropriate to his own use, etc. (Pennsylvania Insurance Digest, 11.)

In devising revenue measures for the emergencies of the assailed Federal government, State corporations were included among the taxables, and a tax of 10 cents per \$100 insured was first proposed; a levy which would have made a large percentage addition to low rate premiums. A discriminating tax against agencies of foreign (non-American) corporations was also threatened. By act of July 1, 1862, it was declared that from such date "there shall be levied, collected and paid by all . . . fire, marine, life, inland, stock and mutual insurance companies, under whatever style or name known or called, of the United States or Territories, specially incorporated or existing under



general laws, or which may be hereafter incorporated, or exist as aforesaid, on all dividends in scrip or money thereafter declared due or paid to stockholders, to policyholders, . . . as part of the earnings, profits or gains of said . . . insurance companies, and on all sums added to their surplus or contingent funds, a duty of three per centum: *Provided*, That the duties upon the dividends of life insurance companies shall not be deemed due or to be collected until such dividends shall be payable by such companies. And said . . . insurance companies are hereby authorized and required to deduct and withhold from all payments made to any person, persons or party on account of any dividends or sums of money that may be due and payable, as aforesaid." Account was to be rendered every six months.

SEC. 84. And be it further enacted, That on the first day of October, Anno Domini eighteen hundred and sixty-two, and on the first day of each quarter of a year thereafter, there shall be paid by each insurance company, whether inland or marine, and by each individual or association engaged in the business of insurance from loss or damage by fire, or by the perils of the sea, the duty of one per centum upon the gross receipts for premiums and assessments by such individuals, association or company during the quarter then preceding; and like duty shall be paid by the agent of any foreign insurance company having an office or doing business within the United States.

SEC. 85. And be it further enacted, That on the first day of October next, and on the first day of each quarter thereafter, an account shall be made and rendered to the commissioner of internal revenue by all insurance companies, or their agents, or associations, or individuals making insurance, except life insurance, including agents of all foreign insurance companies, which shall contain a true and faithful account of the insurance made, renewed, or continued, or endorsed upon any open policy by said companies, or their agents, or associations, or individuals during the preceding quarter, setting forth the amount insured, and the gross amount received, and the duties accruing thereon under this act; and there shall be annexed to and delivered with every such quarterly account an affidavit, in the form to be prescribed by the commissioner of internal revenue, made by one of the officers of said company or association, or individual, or by the agent in the case of a foreign company, that the statements in said accounts are in all respects just and true; and such quarterly accounts shall be rendered to the commissioner of internal revenue within thirty days after the expiration of the quarter for which they shall be made up, and upon rendering such account, with such affidavit, as aforesaid, thereto annexed, the amount of the duties due by such quarterly accounts shall be paid to the commissioner of internal revenue; and for every default in the delivery of such quarterly account, with such affidavit annexed thereto, or in the payment of the amount of the duties due by such quarterly account, the company, or agent, or association, or individual making such default, shall forfeit and pay, in addition to such duty, the sum of five thousand dollars.

#### STAMP DUTIES—EXCISE TAX.

*Insurance (Life).*—Policy of insurance, or other instrument, by whatever name the same shall be called, whereby any insurance shall be made upon any life or lives—

When the amount insured shall not exceed one thousand dollars, twenty-five cents,	25
Exceeding one thousand, and not exceeding five thousand dollars, fifty cents, . . .	50
Exceeding five thousand dollars, one dollar, . . . . .	1 00

*Insurance (Marine, Inland and Fire).*—Each policy of insurance, or other instrument, by whatever name the same shall be called, by which insurance shall be made or renewed upon property of any description, whether against perils by sea or by fire, or other peril of any kind, made by any insurance company, or its agents, or by any other company or person, twenty-five cents, . . . . . 25

So there was to be a partial financial accounting to the Federal government, and also a degree of financial regulation of the affairs of a State corporation by the Federal government. *Inter arma silent leges.* It will be noticed that, in effect, while the scrip dividends of fire and marine companies were treated as immediate values, those of life companies, with other deferred dividend payments, were but remote contingencies.

The tax law exacted the tax on dividends from the stockholder or policyholder, with the corporation or association as accounting collector. The tax on marine and fire premiums was not so defined, and this is to say that the tax, in respect to the insurers, was left to the operation of the principle that the premium is loaded to discharge all the expenses.

Duties on stock certificates, appraisement of damages, etc., added to the impost. The stamp upon the policy covered all endorsements thereon. Companies began to take action in respect to the question of making the war taxes a direct and specific charge to the policyholder.

Captures made by the steam cruiser *Alabama*, or "No. 290"—having been built in England upon the subscriptions of 290 persons—advanced the current war premiums. The ship *Tonawanda*, sailing between Philadelphia and Liverpool, was captured October 10, but was ransomed and released by her master giving a bond to Captain Semmes, of the *Alabama*, for \$80,000, payable after declaration of peace. From September 6 to October 3, inclusive, the *Alabama* had captured and burned four ships and released one ship, and further captured and burned, in these few weeks, four barques, one brig and three schooners, and made eight more captures in October after seizing the *Tonawanda*. The cargo of the *Tonawanda* was insured in England, and was composed of 48,700 bushels of wheat, 40 barrels of flour, 36 hogsheads of bark, 172 cases of wine, 128 bales of hemp, and 50 bales of hemp and rags. If legal, this ransom would have been subject to average upon the arrival of the vessel at Liverpool. By international law such bond was valid as an exception to the general principle that contract with an enemy is invalid. Such ransom was, however, forbidden in England by statute, but had never been prohibited by the United States. Vessels sailing under the flag of the United States being now recognized as comparatively unsafe conveyances, foreign bottoms were in demand at the chief seaports. Extra premiums ranged from 3 to 10 per cent., according to line of voyage and the supposed track of the *Alabama*. At the beginning of November the war rates to the north of Europe were 4@5 per cent., Gulf ports 4, California 4, West Indies 5 per cent.; coastwise,  $\frac{1}{2}$  to  $1\frac{1}{2}$  per cent.

William Martin, secretary of the Delaware Mutual at its commencement as the Delaware County in 1835, president from January 23, 1844, died October 16, 1862, in the 66th year of his age. Mr. Martin was president of the Board of Fire Underwriters, also of the Pennsylvania Steamship Company and of the Philadelphia Steam Tug Company, and was also one of the trustees of the Penn Mutual Life Insurance Company, of which company he had been one of the originators; with different beneficial and educational institutions and land transportation corporations he was also connected. He filled the measure of a life of greatly varied utility. Before his connection with insurance he was recognized as a skilful accountant, and so possessed this fundamental preparative for the main work of his after career. He exercised a commanding influence on the fire and marine underwriting of the city in his time—that is upon the underwriting which was to endure—and his decisions respecting fire-loss adjustments were widely accepted. October 30, following, Vice-president Thomas C. Hand was elected to the vacant presidency.



For year ended October 31, the Delaware Mutual declared, besides 10 per cent. stock dividend, etc., a scrip dividend of 40 per cent. on earned premiums, and ordered payment of the scrip outstanding issued prior to 1858. Marine and inland premiums marked off as earned in the year \$218,142.82, marine and inland losses paid \$88,885.69. The average of scrip dividend declared to date was 19.23 per cent.

The Delaware Mutual wrote in New York, in 1862, \$1,047,321 of marine and inland risks at an average premium of 2.59 per cent., incurring in the year \$16,982.20 of marine and inland losses, against \$27,117.75 of premiums received; the Insurance Company of North America wrote \$2,493,750 of such risks in New York, at an average premium of 2.40 per cent., incurring \$63,919.60 of losses, against \$59,839.31 of premiums. In its total marine business the latter company received \$464,533.97 of premiums in 1862, and paid \$354,238.38 for losses. The Anthracite, pursuing a local business, received in the year \$45,990.60 of marine and inland premiums, paying \$23,981.95 for losses; fire premiums \$3,454.83, fire losses paid \$800.00. On so much of its capital stock as was recognized as paid in, a dividend of 8 per cent. was declared in January, 1863. Dividends of Union Mutual and Phoenix Mutual were limited to 6 per cent. on outstanding scrip. The Insurance Company of the State of Pennsylvania was declaring 10 per cent. dividends on its \$200,000 capital, and the American Mutual was heard of as a declarer of dividend on capital stock.

Suit was instituted to recover upon a time policy for \$3,000, executed by the Insurance Company of the State of Pennsylvania, December 23, 1860, on brig John Welsh, for one year; Nisi Prius—Lowrie, C. J. This brig was captured July 6, 1861, by the privateer Jeff Davis, about 300 miles off Nantucket shoals. The facts of capture and total loss were undisputed, but the relative specially enumerated perils assumed were "pirates, rovers, assailing thieves";\* capture and seizure being excepted. The risks assumed were not war perils, and the peace risk and the war risk are radically distinct divisions of underwritten hazard. The defence contended that the loss was occasioned by acts of public enemies, and that such peril was not insured against. The court instructed the jury to find for the plaintiff for amount claimed, subject to the opinion of the court on the point reserved. Verdict accordingly, for \$2,848.75.

\* April 20, 1861, the steamer Mohawk, touching at Memphis, Tennessee, was seized by armed men professing to act under the authority of the Confederate States, and confiscated; and the steamer was abandoned to the underwriters as for total loss. Upon a policy for one year, unexpired at date of such seizure, the steamer was insured in the sum of \$5,000 by the Monongahela Insurance Company of Pittsburgh. Action of debt was begun in the District Court of Allegheny county. The steamer, under terms of the policy, was privileged to navigate the Ohio river and tributaries, also the Mississippi river at and between New Orleans and Keokuk, Iowa, and the Illinois river. Perils insured against were "of the seas, lakes, rivers, fires, enemies, pirates, assailing thieves, and all such losses and misfortunes which shall come to the damage of the said steamer Mohawk, according to the true intent and meaning of this policy." Recovery was claimed on the ground that the steamer was lost by the act of enemies, and so the court ruled, which was assigned for error.

Monongahela Insurance Company *vs.* Thomas R. Chester, for use, etc. Thompson, J.: . . . . .

The term enemies, as used in the policy, means public enemies, and is defined by writers on national law to be "where the whole body of the nation is at war with another." (Bouvier's Law Dictionary.) Vattel says: "The enemy is he with whom the nation is at war." (Law of Nations, 387.) Adhering strictly to these definitions, the loss here would hardly be covered by an insurance against enemies. But this is too narrow a ground to take. Indemnity is the object of all insurance, and in marine policies the rule seems to be, that when the loss is of *like nature* with the specified peril, or, in other words, substantially within its meaning, to sustain the liability of the underwriters. The enumerated perils are described, of course, by general terms, while the varieties of the species may be numerous, but if they substantially



Another bill to begin the State supervision of insurance companies failed in the legislature in session in March, this year. It was alleged, however, that it was but an expedient of legislative tactics for other ends than such supervision.

A bill in equity, District Court of Philadelphia, at this time, (*Macready vs. Hart and others*, directors of the Quaker City,) involved the question of the liability of directors for the publication of false and fraudulent statement of assets. This bill, after a number of specific averments, charged that the statements furnished to the insurance department of the State of New York [comptroller] were false, fraudulent and untrue; that the company was never possessed of a paid-up capital of \$200,000, and that of the whole subscription to such capital, but few shares were taken by persons of any pecuniary responsibility; that the company never possessed assets of the value of \$277,665.88, as set forth in the annual statement of 1858, nor of the value of \$324,451.42, as set forth in the annual statement of January 4, 1859, nor of the value of \$359,746.70, as set forth in the annual statement of 1860. The complainants further averred that they, upon the faith of such representations, became insurers with, or dealt with, the company, by taking its obligations and acceptances; and that by reason of such representations and statements, the defendants made themselves liable in equity to make good such statements and representations to the complainants, and all other creditors who were deceived and defrauded thereby. It was also charged that the whole amount of cash paid on any of the shares was an assessment of 10 per cent. in cash, which was paid only on a part of the shares; the balance was paid for, when paid at all, in depreciated stocks and valueless mortgages; and that during four years of the company's existence, the stockholders, including the directors, received back in dividends more than the amounts of cash and value in securities which they had paid for their shares; that said dividends were declared by the defendants as well for the purpose of withdrawing their money invested in the capital stock of the concern, as for the purpose of creating a false credit with the public as to the solvency of the said company. It was asked that the defendants by order of the court be directed to make good

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belong to the class described by the terms used, they are within it, unless the pleadings prevent, the rule being that "policies are to be construed largely for the benefit of trade." (*Hilliard on Insurance*, 201.)

But it is not at all indispensable to the maintenance of the judgment that it should be sustained on the ground on which it seems to have been placed below. The judgment is right, even if the reasons for it be insufficient. As we have no pleadings in the case, we are not tied down to any one ground of recovery. If it be sustainable on any ground, the judgment is right.

In 3 Kent, p. 299, the learned author says: "This general sweeping clause, following the enumerated list, covers other cases of marine damage of the like kind with those specially enumerated, and occasioned by similar causes." This doctrine is predicated of a general clause, differing only in the use of the words, in the enumerating clause, "all other losses," instead of "all such losses." This effect of the general clause is also laid down in *Moses vs. Sun Mutual Insurance Company*, 1 Duer Rep., and in 2 Arnold, 842. We have already observed on the character of the contest, and the manner in which it has been conducted from the first, and surely if the war be not such, and those engaged in it enemies to the country and domicile of the insured in the technical sense of the word, the capture of the steamer resulted from a very similar cause. It was by an armed force in military form, acting under the authority of an organized, although usurping government, claiming to hold and maintain a separate existence as against the rightful government, and was an irresistible force as against the property insured, so that it became entirely lost to the owner. Upon this general clause, a recovery, I think, therefore can be securely rested.

These views entirely and necessarily exclude the suggestion that the loss was covered by the peril of "assailing thieves." The facts found negative any such ground as this. Judgment affirmed. (7 Wright, 491.)

such representations, either by paying the amount of their creditors' losses and demands, by such creditors receiving a transfer of the same against the assigned estate of the company, or else by defendants paying the amount of the deficiency which should be ascertained to exist in the assets of the company, after applying the assigned estate, as far as it would go, to the satisfaction of the claims, etc. On the demurrer of the defendants the decision of the court was to the following effect:—

Stroud, J.: . . . . . There are twelve defendants, who, with a few exceptions, have severally demurred. . . . .

That those who suffered pecuniary loss by such misrepresentation are entitled to redress, cannot be questioned, and that from the number of the parties and the extended and complicated nature of the frauds, there can be no adequate remedy at law, is easily manifest. Two causes of demurrer may be examined together. The first is, that the bill discloses no joint right of action in the complainants, and therefore they are improperly joined; secondly, that the defendants are not *jointly* responsible, and ought not, on this account, to be joined as defendants.

A solitary decision here and there can be found in the old reports, which give some countenance to the first of these assignments. But a more liberal doctrine has been firmly established by numerous authoritative decisions of a later date, as well in England as in the courts of this country. In relation to the objection that the interests of the complainants are several in respect to each other, the rule at the present day does not make such severalty a decisive test. The subject, in its whole extent, is largely discussed [cases named], and the broad rule is established that where there is a *common* interest in all the plaintiffs in all the matters comprised in the bill, and a *common* liability in all the defendants, it is sufficient, and it is not necessary that the interest of the plaintiffs should be a *joint* one; nor yet that the defendants shall in strictness and in all particulars be jointly responsible. Whether or not the court will entertain jurisdiction under such circumstances, depends upon considerations of expediency and convenience arising upon a broad view of the entire subject.

In at least three of the above cited cases, some of the defendants were interested in portions only of the matters contained in the bill, and it was held that this, of itself, did not prevent the joining of them with others as defendants. The remarks of Chancellor Kent, in *Brinkerhoff vs. Brown*, relieve the case of any difficulty on this account. "The remedy," he says, "would be varied and adapted to the case of each individual defendant. If the general charge of fraud should be established in part as against *some* of the defendants, and *not* against *others*, the decree would then be adapted to the proof. I do not see that this circumstance can create any difficulty in sustaining the bill. It is cheapest and best for the interest of all parties that the subject of the fraud, in all its parts, should be investigated and settled in one suit." (Page 157.)

It is also assigned as a cause of demurrer, that the bill does not charge the different defendants as individually and *personally* guilty of the frauds and deceptions alleged to have been practiced on the complainants, etc. It is true the charge is against the whole of the directors, and the ground upon which the charge is affirmed implicates the whole of them. But what is there objectionable in this? Whatever is charged, is alleged to have been done with actual knowledge, or from a remissness properly characterized as gross negligence. The guilt is the same in the eye of the law, if not in morals, from whichever cause it may have resulted. If one should misstate a fact, of which he is presumed to have notice, or might readily have obtained information, he is bound thereby.

It is also made a ground of demurrer, "that the bill prays for a decree for the payment of claims yet unascertained and unknown." That one of the claims has not been prosecuted to judgment, is no objection to a bill founded upon a cause of independent equity jurisdiction, although it would be otherwise were it a bill merely in aid of a remedy at law. Demurrer overruled.

With the carrying trade reduced more than one-half as to American vessels, exports were beginning to increase as the summer advanced, attended with increased writing of marine risks. By the last of July, 1863, there were counted as having been captured by fifteen Confederate privateers, 153 vessels—ships, barques, brigs and schooners—having possibly an aggregate value for vessels and cargoes of approximately eight million dollars. Rates on war risks were



rapidly fluctuating—rising, in great emergencies, as high as 25 per cent. Atlantic navigation, south of the equator, was the most unsafe in August, 1863, for the mercantile marine of the United States. Four of the Philadelphia offices—the Insurance Company of North America, the Insurance Company of the State of Pennsylvania, the Union Mutual, and the Delaware Mutual—accepted the marine war hazard, but so far the average rate of premium and the loss ratio were not materially affected by the number and character of such risks assumed. As the privateers attained to the status of public enemies, they came directly within the war risk, but there was a question as to the liability of the underwriters for ransom bonds given by masters for the release of their captured vessels, such bonds being construed as a compounding with the public enemy.\* The privateers were now either burning or bonding—no prize court passing sentence upon the captures.

The internal revenue office ruled that the transfer or assignment of a policy was subject to the same rate of duty as the original policy. Stamp was to be affixed either by the party executing the instrument, or the one for whose use and benefit the same was executed; penalty of \$50 to be enforced against either or both of the parties for neglect. If the assignor neglected to affix and cancel the stamp, it was the duty of the assignee to do it.†

In its official year ended October 31, 1863, the Delaware Mutual marked off as earned premiums on marine and inland risks \$378,468.34, marine and inland losses paid \$178,444.10. Earned surplus of the year was \$216,621.97, and the assets footed up \$1,089,425.52. The scrip of this company was now selling at above 60 per cent. Net amount of marine risks written by the Insurance Company of North America in 1863, \$15,943,873, at an average premium of approximately 2 per cent.; net cash premiums received on marine risks \$320,426.73, amount paid for marine losses \$154,241.84. The total assets at the close of the year were \$1,556,663.50; an extra dividend of 6 per cent. was declared on the capital stock of \$500,000, and the total dividend declared during 1863 was \$90,000. Shares of the North America were commanding \$29 in the market, or 190 per cent. above par. In addition to 6 per cent. on outstanding scrip by each company, the Union Mutual (assets \$354,298.16) declared in January, 1864, an 8 per cent. dividend on capital stock, and the Phoenix Mutual 6 per cent. Stock of the Union Mutual was worth \$19 per share in the market; that of the American Mutual \$6.25—par \$15. The

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\* The New York Underwriter said: "In a recent case a cargo was insured with the war clause in this port ['capture, seizure, detention or destruction']; the vessel was captured by a privateer, bond given, and vessel arrived. The owner of the vessel refuses to discharge the cargo unless indemnified to the value of the cargo against the bond. The insurance offices decline to interfere, saying that as no loss has occurred, no claim lies against them."

† Act of March 3, 1863, ordered that:—

Insurance agents shall pay ten dollars for each license. Any person who shall act as agent for any fire, marine, life, mutual or other insurance company, or companies, shall be regarded as an insurance agent under this act: *Provided*, That no license shall be required of any insurance agent or broker whose receipts, as such agent, are less than the sum of six hundred dollars in any one year.

SEC. 3. And be it further enacted, That any person or persons, firm, company or corporation, who shall issue tickets or contracts of insurance against fatal or non-fatal injury to persons while travelling by land or water, shall pay a duty of one per centum on the gross amount of all the receipts for such insurance, and shall be subject to all the provisions and regulations of existing law applicable thereto in relation to insurance companies: *Provided*, That no stamp duty shall be required upon tickets or contracts of insurance as aforesaid, when limited to fatal or non-fatal injury to persons while travelling.



Phoenix Mutual resumed the writing of fire risks in 1863, and the report of the company for the year was as follows:—

Premiums on marine risks for the year ending Decem- ber 31, 1863, . . . . .	\$65,629 27	
Ditto on fire risks, . . . . .	13,659 75	
		\$79,289 02
Marine premiums determined during same period, . .	\$50,415 59	
Fire premiums " " " " . . . . .	3,391 92	
Interest, salvage, recoveries, etc., . . . . .	14,287 62	
		68,095 13
Marine losses paid, . . . . .	\$39,236 03	
Return premiums and reinsurances, . . . . .	6,329 93	
Fire agency charges, advertising, printing, etc., . . .	1,163 21	
Taxes, repairs and alterations of office, contributions for defence of city, etc., . . . . .	3,110 86	
Office expenses, salaries, etc., . . . . .	6,680 64	
		56,520 67
		\$11,574 46

*Assets, January 1, 1864.*

\$45,000 Pennsylvania State loan, 5 per cent., . . . . .	\$44,100 00
38,000 Philadelphia City loan, 6 per cent., . . . . .	39,595 00
10,000 United States 5-20 loan, 6 per cent., . . . . .	10,000 00
20,000 Camden and Amboy R. R. bonds, 6 per cent., . . . . .	19,850 00
Bonds, mortgages and ground rents, . . . . .	6,137 50
Real estate in the city of Philadelphia, . . . . .	28,366 38
1,062 Shares Phoenix Mutual Insurance Company, . . . . .	21,139 50
Turnpike and tow-boat stocks, par \$4,150, . . . . .	1,071 09
Mutual scrip certificates, estimated, . . . . .	14,350 00
Bills receivable for premiums, premiums on policies recently issued, and other debts and accounts, . . . . .	28,716 40
Cash on hand and in bank, . . . . .	16,090 99
	\$229,416 85

By January 30, 1864, the number of merchant vessels captured by seventeen Confederate cruisers was 164, and 29 were seized in Southern harbors and rivers; total, 193. The estimated value of the vessels was \$4,400,000; of the cargoes, \$8,900,000. Of the vessels captured by the cruisers, all were burned, excepting 17, which were bonded.

While the doings of the Confederate privateers were keeping the writers of maritime war risks on the alert, proceedings in court kept the public attention somewhat directed towards the past doings of abandoned marauding insurance corporations. The Supreme Court of the State, sitting in Philadelphia, affirmed a judgment given in the Common Pleas of Bradford county, in a suit growing out of one of the mortgages transferred to the Great Western Insurance and Trust Company by the Farmers' Union Insurance Company of Bradford County, when the latter was merged in the former. The Farmers' Union had arranged a capital of \$200,000—one-half to be secured by bond, and one-half by bond and mortgage. A subscription book was opened therefor, containing an agreement: "To pay in the same as may be required and necessary to the payments of all losses and expenses of said company, not otherwise provided for, and in the manner as that was, or may hereafter be required, by the charter and by-laws of the said company." This was subscribed by all the shareholders, and, among others, by William Myers, August 30, 1855. It was understood at the time of subscribing, that if it were necessary to collect anything on the mortgages, it would be collected from

the whole stock of \$200,000; each person to pay in proportion to the stock held; and such *pro rata* assessment was declared by a resolution of the board of directors.

In Error. At the commencement of 1859 it would appear that negotiations were pending between the directors of this company and those of the Great Western Insurance and Trust Company of Philadelphia, for the transfer of certain first mortgages of the former to the latter for \$100,000 of the stock of the latter company. In the course of these negotiations a statement was handed in on the 21st of February by the Great Western of their condition, to the committee of the Farmers' Union, showing a favorable state of their affairs, whilst they had in their possession an entirely different statement, taken from and corresponding with their books. This statement was never known to the Farmers' Union, nor discovered by those who represented it, until March, 1860, when the Great Western Insurance Company had failed. In the statement exhibited to the committee of the Farmers' Union the aggregate amount of the assets was \$264,942.34, and the liabilities \$65,054.88. There was no balance struck, and the capital stock remaining was there represented at \$220,500, and was not represented as a part of the assets on the paper. In the other statement the assets appeared to be \$180,207.47, and the liabilities of the company \$77,318.81. The interest in the brown-stone building [north-west corner Walnut and Fourth streets], as represented to the committee, was put at \$53,000, whilst in this statement it was represented at \$11,000. Under these circumstances the board of directors of the Farmers' Union Insurance Company, March 8, 1855, passed two resolutions: the first to unite with the Great Western Insurance and Trust Company of Philadelphia, and authorizing the president and secretary to make a subscription of \$100,000 to the stock of the said company, and to transfer in payment therefor \$100,000 of their first mortgages, and to transfer certain assets therein specified, consisting of amounts in hands of agents, notes for premiums, cash that may be in hand and in bank, and certain mortgages, upon condition that the Great Western assume all liabilities, except the debts at the Waverly Bank, and reinsure all the outstanding risks. The second resolution was, in case the arrangement was effected, and the companies became merged, then the \$100,000 mortgages, as transferred, are to remain in the hands of the Great Western, and shall only be collected in assessments regularly made for the liabilities of the said company, *pro rata*, with the whole amount of the stock held by said company.

Under the same date, and immediately following these resolutions, is the *assent of shareholders*, which contains this clause: "Our assent is hereby given to the above arrangement and union of interests with the Great Western Insurance and Trust Company, with the understanding that the same is to be agreed to by all and each of the stockholders of the Farmers' Union Insurance Company."

March 14, 1859, an agreement was signed and executed by the president and secretary of each company, merging the charter and all the corporate rights and franchises of the Farmers' Union Insurance Company in the Great Western Insurance and Trust Company. The mortgages were transferred to the Great Western, including the bond and mortgage of William Myers, and which were subsequently assigned [to] John R. McCurdy, a director of the Great Western, and entirely cognizant of all these transactions, thus taking the said securities with full notice. He stood, therefore, in the shoes of the Great Western, who had no other rights than those of the Farmers' Union over the bonds and mortgages which are the subject of the present suit.

William Myers died in March, 1856, leaving his widow his executrix and devisee, who thus became a shareholder in the Farmers' Union Insurance Company, and indebted as the holder and owner of the mortgaged premises upon the same terms, and to the same extent, only as her husband was to that company. Her defences, therefore, to this suit, were the terms of the original subscription and the subsequent resolution under which the mortgage was received by the Farmers' Union, the terms of the resolution of the 8th of March, 1859, and the fraud practiced by which they had been obtained, and the assent of the same date, which was invalid unless signed by all and each of the stockholders, and the undoubted fact that it never was signed by her as a stockholder, or directly or indirectly assented to or agreed to by her in any way whatever.

The court below, however, placed it upon the impregnable ground that she never assented to the transfer, or to any of the terms upon which it was made. The opinion of the learned president judge states the law on this point so forcibly and clearly that it is unnecessary to do more than to say the judgment is affirmed.

Upon hearing the argument on the point reserved, *i. e.*, whether the plaintiff was entitled to have judgment entered upon the verdict at *Nisi Prius*, in the matter of the loss by capture of the brig John Welsh (*Fifield vs. the Insurance*



Company of the State of Pennsylvania), Chief Justice Lowrie directed judgment to be entered in favor of the defendant corporation. This was assigned for error, but the Supreme Court affirmed such judgment.

Held: The capture by a privateer in commission under the government of the so-called Confederate States, of an insured vessel, does not render the insurers liable upon the policy, wherein liability for "loss by seizure, *capture*, or detention, or the consequence of any attempt thereat," was excepted.

Opinion of Supreme Court was given by Woodward, C. J., Thompson, J., concurring in full; Strong, J., concurring with the judgment, without adopting all the reasons assigned for the affirmance. (11 Wright, 166.)

The legislative session closing in 1864 passed a bill Imposing Additional Taxes for State Purposes and to abolish the Revenue Board, which was approved April 30, 1864. (Pamphlet Laws, 1864, 218.) Various amendments introduced in the course of the bill through the two branches of the legislature, left it doubtful whether the agencies of non-State companies were to be taxed or not 3 per centum on annual net earning in addition to the tax of 3 per cent. on gross premiums, as defined by the acts of April 9, 1856, and May 1, 1861. Thereupon the following supplement to the act "imposing Additional Taxes for State purposes," etc., was adopted:—

That so much of the second section, and other provisions of said act, as relates to foreign insurance companies, be and the same is hereby repealed; and that said foreign insurance companies shall be subject only to the laws heretofore imposing taxes upon them. Approved May 4, 1864.

To enforce such supervisory duties as were appointed for the district attorneys of the respective counties receiving 10 per cent. of the taxes paid by the agencies,\* the following was enacted, being Section 2 of an Act to provide Additional Revenue for the Use of the Commonwealth:—

Before any of the district attorneys of the commonwealth shall be entitled to receive the compensation for making the examinations and reports authorized by the seventh section of the act relative to foreign insurance companies, and approved May 12, [?] 1856, he shall attach to his report, under oath or affirmation, subscribed by him, a declaration that he has, by himself, or by some one authorized by him for the special purpose, examined the agent or agents, and the books of such agencies as are named in his annual report, and that, from such examinations, he is satisfied of the correctness of his said report. Approved August 25, 1864. (P. L., 1864, 989.)

Federal taxation of insurance, arising from the exigencies of the war, was somewhat changed and enhanced by an act of June 30, 1864, to provide Internal Revenue to support the Government and to pay Interest on the Public Debt, and for other Purposes. The duty on dividends and yearly additions to surplus and contingent funds, was increased from 3 to 5 per cent. It was provided, however, "that the portion of premiums returned by mutual life insurance companies to their policyholders" should not "be considered as dividends or profits under this act." (This treatment of return life premiums was extended by a decision of the commissioner of internal revenue to all cases of strictly return premium.†)

\* In 1864 the total tax paid was \$30,318.82; in 1865 it was \$75,435.29, and the latter figures were nearly doubled two years later. About eight-ninths of such taxes were paid by Philadelphia agencies.

† The decision was that "when any portion of the premium is returned because the policy has not been used in full, or because, as in the case of a mutual insurance company, the amount of premium paid in proves to be in excess of the amount required to effect the insurance, the amount of premium so returned is not to be considered a dividend or profit within the meaning of the act."



Tax on gross marine, inland, and fire premiums was enhanced from 1 to  $1\frac{1}{2}$  per cent., and  $1\frac{1}{2}$  per cent. premium tax was imposed on contracts of insurance against injury to persons while travelling by land or water.

A ten-dollar license fee was required of each agent of an American insurance company whose receipts, as agent, were in excess of three hundred dollars. A license fee of fifty dollars was exacted from the agent of a foreign company.

Stamp duties were modified: When the consideration for marine, inland or fire insurance in cash, premium notes, or both, did not exceed ten dollars, a ten-cent stamp was to be affixed to the policy; consideration exceeding ten dollars, but less than fifty dollars, the stamp duty remained at twenty-five cents; exceeding fifty dollars, a fifty-cent stamp was required. The life insurance policy stamps remained unchanged in rate from the act of July 1, 1862. All mutual deposit notes were exempt from stamp duty.

A few captures were made in 1864 by the privateer *Alabama* before she was sunk, after an engagement seven miles off the French harbor of Cherbourg, by the United States steamer *Kearsarge*, Captain Winslow, June 19. The *Florida* appearing off the coast of Virginia in July, captured six vessels and destroyed others, but was seized, October 3, in the bay of San Salvador, Brazil, by Captain Collins, of the *Wachuset*. Off the coast of Portugal, the *Georgia*, the last of the three English-built privateers, was captured by the *Niagara*. Three more Confederate steam cruisers appeared in 1864. One of these, the *Tallahassee*, destroyed thirty-three vessels in ten days on the coast of the Northern States. Some captures were made by the two other steamers, the *Olustee* and the *Chickamauga*. But the effectiveness of the Confederacy at sea was waning with the waning of its power on land, and the maritime war premiums were receding in rate as the year 1864 closed.

At the end of its fiscal year, October 31, 1864, the assets of the Delaware Mutual reached \$1,201,664—a gain of \$332,529 from October 31, 1861. In addition to 10 per cent. stock dividend and 6 per cent. interest on outstanding scrip, 40 per cent. scrip dividend on the year's entitled earned premiums was declared, and the redemption of the earliest of the outstanding scrip issues (1860) ordered.

The Insurance Company of North America wrote \$21,719,741 of marine risks in 1864, against \$12,337,933 in 1861. It paid \$265,182.82 for marine losses in 1864, and \$260,911.66 in 1861.

For sixty years a marine insurance corporation, reaching back at its beginning to the then yet continuing personal marine underwriters, a reminiscence of the time when maritime underwriting was the predominant insurance, the Union Mutual was ending its career as a distinctive marine insurance office. Its last annual statement as such was as follows:—

Premiums received from Jan. 1, 1864, to Dec. 31, 1864, . . . . .	\$201,005 85
“ undetermined Jan. 1, 1864, . . . . .	52,509 43
	<u>\$253,515 28</u>

Premiums earned in 1864, . . . . .	\$187,892 08
Interest on investments, . . . . .	20,550 10
	<u>\$208,442 18</u>
Losses paid during year, . . . . .	\$101,968 64
Return premiums, . . . . .	14,368 60
Reinsurances, . . . . .	14,349 65
Expenses and commissions, . . . . .	15,377 11
United States taxes, . . . . .	3,851 84
	<u>149,915 84</u>
	<u>\$58,526 34</u>
Less amount paid to customers in lieu of scrip, . . .	\$22,342 22
Amount reserved to pay losses not adjusted, . . .	13,000 00
	<u>35,342 22</u>
Balance remaining with the company, . . . . .	\$23,184 12
<i>Assets, January 1, 1865.</i>	
Stocks, bonds, etc., . . . . .	\$270,000 00
Bills receivable, . . . . .	42,096 28
Cash on hand, . . . . .	\$21,729 39
Cash deposited in United States treasury, . . . .	20,000 00
Loaned on collateral, . . . . .	10,000 00
	<u>51,729 39</u>
Due the company for unsettled premiums, salvages, and other accounts, . . . . .	42,970 44
	<u>\$406,796 11</u>

Eight per cent. dividend declared on capital stock, six per cent. on outstanding scrip.

An amendatory act of March 3, 1865, somewhat modifying the internal revenue act of June 30, 1864, (monthly returns of receipts required instead of quarterly, etc.) made the following additional Federal taxation providing for a license to go into effect on the first of May following:—

Insurance brokers shall pay twenty-five dollars for each license. Any person who shall negotiate or procure insurance in behalf of another person or party, for which he shall receive any pay, commission or compensation, shall be regarded as an insurance broker under this act.

By subsequent decision of the commissioner of internal revenue, any person directly (or indirectly through agent) authorized to represent an insurance company, was to be licensed as agent—mere solicitors of business acting as employes of agents, not agents, however. It was decided, also, that amounts paid for reinsurance could not be deducted from the premiums originally received, as taxable receipts.

A whole-State license for the non-State “fire, marine, inland, or life insurance, annuity and trust company,” superseding the county licenses of the acts of April 9, 1856, and May 1, 1861, was authorized by an enactment approved March 27, 1865,—one-year license fee \$600, or \$600 for each and every year “for a space of time not exceeding five years.” By November 30, of the same year, twenty-two fire, thirteen life, and four accident insurance companies had accepted the whole-State license.

In respect to marine time policy, innovations had been made upon the implication of the warranty as to seaworthiness, which were advancing from limitations of the implied warranty to port of departure to total exclusion. In the District Court, however, (*Dallam vs. Insurance Company*), it was held that where the vessel is in port when the insurance is effected, a time, or timed voyage, policy implies seaworthiness.

Stroud, J.: The plaintiffs procured an insurance of \$4,000 "on a steamer called Cooper's Point, lost or not lost, for the term of three months, privileged to be used in or out of the service of the government of the United States, between Philadelphia and Baltimore, *via* canal, Chesapeake bay and its tributaries, also to use the port of Beaufort and Newbern, through the Chesapeake and Albemarle canal or coastwise to said ports."

The declaration was in assumpsit upon this policy, . . . . . "and the plaintiff said that on the 19th of November, 1863, said steamer departed from Baltimore to Washington, *via* Chesapeake bay and its tributaries; and afterwards, and whilst the steamer was proceeding on the said voyage, before arrival at Washington, November 19, 1863, the steamer became and was leaky, and greatly broken and damaged, and it became expedient to sail for the nearest shore; and by the violence of the winds and waves was wholly lost, never arriving at Washington."

After all the plaintiff's evidence had been received, on motion of the defendant's counsel, the court ordered a non-suit, under the seventh section of the act of assembly relating to this court. The vessel had encountered no storm, nor had she run on any obstruction whatever. The plaintiff moved the court to set aside the non-suit.

. . . . . Although formerly no distinction was supposed to exist between one and the other of these kinds of policies [voyage and time], yet it is now the settled law of the English courts, that in a time policy there is no implied warranty of seaworthiness at the commencement of the risk. . . . . The case before us affords a striking illustration of the unstable foundation upon which the newly-discovered difference between a time policy and a voyage policy rests. This policy combines the two modes of insurance. It is an insurance on a steamer for three months, but restricted to the performance of certain prescribed voyages. The termini of these voyages are fixed. The number of them to be performed is to be determined by the discretion of the owners and capacity of the vessel within the limited time. What greater difficulty can there be in implying a warranty of seaworthiness of the vessel at the date of the policy, than in the same exaction at the commencement of the voyage?

When the condition of the vessel cannot be known because the place at which she is when any one having an interest in her and desiring to obtain insurance is unknown, there may be a sufficient reason for dispensing with the warranty of seaworthiness, leaving it to the parties to graduate the premium by the higher risk. But this reason has no application when a vessel is in port, and her true condition readily ascertainable.

. . . . . Should it be thought doubtful whether the want of seaworthiness be applicable to the present policy, the substitution of a voyage not authorized by that instrument (the evidence of which is beyond dispute) constituted a full warranty for the non-suit ordered. Motion dismissed. (6 Phila., 15.)

With the pressure of the war relaxing, ocean marine underwriting began to decline before the close of the struggle, in May, 1865.

In the year 1865 the Delaware Mutual extended its fire risks while contracting the marine risks. The shares of the other mixed mutual offices writing marine policies were declining in the market. The shares of the Phoenix Mutual—now a marine-fire office, as has been stated—had fallen to \$5.50. On the first of July the Insurance Company of the State of Pennsylvania opened an authorized agency in the city of New York for fire risks—James S. Hollinshead, attorney. It was now seventy years since this company had begun marine underwriting, and twenty-one years had elapsed since the issue of the first fire policy. The total amount at risk December 31, 1865, was \$16,090,091—under marine policies \$8,384,789; under fire policies, temporary and perpetual, \$7,705,302. Of the latter, \$7,141,952 had less than one year to run—perpetual \$419,250. Amount written in 1865, marine risks \$14,262,740, fire risks \$12,321,554.

	1865.	
	Premiums.	Losses paid.
Net marine, . . . . .	\$188,106 08*	\$255,075 02
Net fire, . . . . .	69,347 00	61,024 19
Total cash receipts, . . . . .	\$297,311 26	
Total expenditures, . . . . .	386,323 45	

\* Cash. Among the assets were \$39,892.65 of bills receivable on marine risks.



Included in such expenditures were \$40,000 of cash dividends paid on the capital stock. Interest earnings in the year were \$39,858. From 1794 the average of annual cash dividends declared to stockholders was 11 per cent.

*December 31, 1865.*

Capital, . . . . .	\$200,000 00
Reinsurance and other liabilities, . . . . .	238,782 35
Net surplus, . . . . .	192,957 53
Total assets, . . . . .	\$531,739 88

Market value of the stock was \$350 (par \$200). The result of the operations in New York in 1865 was:—

Fire risks written, . . . . .	\$3,184,734 00
Fire premiums received, . . . . .	18,157 45
Fire losses incurred, . . . . .	19,406 84

In March the Union Mutual had begun the writing of fire risks. January, 1866, an 8 per cent. stock dividend was declared, and 6 per cent. on outstanding scrip, clear of taxes. The first annual exhibit of the Union Mutual as a marine-fire office was as follows:—

Marine premiums received in 1865, . . . . .	\$183,986 83
“ “ undetermined January 1, 1865, . . . . .	65,623 21
Fire premiums from March 1, 1865, to January 1, 1866, . . . . .	17,874 87
	<u>\$267,484 91</u>
Earned premiums, marine and inland, . . . . .	\$194,463 42
“ “ fire, . . . . .	2,500 00
Interest on investments, . . . . .	19,801 39
	<u>\$216,764 81</u>
Losses paid, marine, . . . . .	\$114,879 66
“ “ fire, . . . . .	2,000 00
Return premiums, . . . . .	14,605 46
Reinsurances, . . . . .	8,585 40
Expenses and commissions, . . . . .	18,013 04
United States taxes, . . . . .	4,878 49
	<u>162,962 05</u>
	<u>\$53,802 76</u>
Commutations to customers in lieu of scrip, . . . . .	22,619 99
	<u>\$31,182 77</u>

*Assets, January 1, 1866.*

Stocks, bonds, etc., . . . . .	\$265,900 00
Bills receivable, . . . . .	41,855 74
Cash in bank, . . . . .	\$35,792 05
“ deposited in United States treasury, . . . . .	10,000 00
	<u>45,792 05</u>
Due for unsettled premiums, . . . . .	33,525 08
	<u>\$387,072 87</u>

Monthly returns of premiums to the assessor of Federal taxes for the year 1865 by five of the six marine-fire offices of the city made up these aggregates:—

Insurance Company of North America, . . . . .	\$691,203 92
Delaware Mutual, . . . . .	465,891 32
Insurance Company of the State of Pennsylvania, . . . . .	257,463 15
Union Mutual, . . . . .	145,612 92
Anthracite, . . . . .	72,570 47

Different from the others, the fire premium receipts of the first-named company exceeded the marine. Annual premium receipts of the six marine-fire offices were, in amount, about double the premium receipts of the twenty-three distinctive fire offices of the city.

Besides the significance of the lessening annual premium receipts of the Atlantic Mutual, of New York, the failure of the Columbian, of New York, at the beginning of 1866, was an indication of the unfavorable position of marine insurance affairs. The Columbian began 1865 with assets valued at \$5,938,573 (premium notes and bills receivable \$3,588,468), and was making up an additional cash capital of \$1,500,000. Concerning the general maritime insurance position it was said: "The transfer of American vessels to other flags [estimated at 900,000 tons], the depreciated character of our commercial marine, and various circumstances involving extra hazards, have decreased good risks and increased bad ones."

Legislation concerning the agencies was increasing with the increase of the agencies, but the chief point in view continued to be the protection of the State revenue received from the agencies. An act approved March 1, 1866, supplementary to the act of April 9, 1856, required, for the better enforcement of Section 4 of the act of 1856, that the annual statement made by the agent of a fire, life or marine insurance company, to the auditor-general, as to "the whole amount of business done by said company in this commonwealth," shall be endorsed by the president of the company as being "faithfully and truly reported." The supplement further made each violation of the provisions of the act of 1856 by any person or persons a misdemeanor punishable by a fine of \$500, and "any company doing business by receiving applications or forwarding policies to any person not duly authorized to act as agent shall also be fined in a like sum of \$500 for each offence, and be prohibited from doing business in this State until all fine or fines be fully paid." Remotely, this touched the question of reinsurance and reinsurance premium. Nominally, Section 4 of the act of 1856 prohibited the transaction of business for any company whose capital might become impaired to the extent of more than 30 per cent., but the basis for determining such impairment did not include a defined reinsurance liability.

Final decision in the last of the contested prize cases (that of the Bermuda) arising out of violation of the blockade during the war against the secession of States, was made this year in the United States District Court. It was held by Cadwalader, J., that,—

Either spoliation of papers or falsified destination suffices to induce a legal presumption of hostile ownership. Further proof refused where the destination had been falsified, and papers were, under an apprehension of capture, destroyed in pursuance of previous instructions to do so.

Maritime disasters maximized in 1866,\* with increasing premiums falling short of increased losses. In the aggregate marine and inland business of the

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\* The statistical committee of Lloyd's (London) reported the casualties of the twelve months, under their observation, as numbering 11,711, including 98 missing, 341 abandoned, 1,958 that had come in collision, of which, however, 492 escaped without material injury, and only 198 were sunk; 530 foundered, 3,381 stranded, of which 1,672 were got off; 35 captured, 18 suffered from piracy, 173 from fire, 605 from bad

Philadelphia offices there was no margin between gross premiums and losses,\* but in the case of the Delaware Mutual, in the year ended October 31, 1866, there were \$602,770.64 received for marine and inland premiums (fire premiums \$139,692), and \$326,320 paid for marine and inland losses. Marine and inland losses paid were 58.8 per cent. of earned marine and inland premiums, while the fire losses paid were 71.9 per cent. of earned fire premiums.

At the opening of 1867 the marine insurance situation was shown as of increasing precariousness by the cancelling of the scrip of the Sun Mutual and the Washington Marine, of New York, and later in the year the Washington went into the hands of a receiver. In Philadelphia there was a further decline in the market value of the stock of companies transacting marine and fire business, for the reason, in part, that the fire business was undergoing a greater relative ratio of loss than the marine branch. In 1866, the market value of the stock of the Insurance Company of the State of Pennsylvania, reported at \$350 per share at the beginning of the year, was reported at \$280 at the close of the year. The further continuance of the Phoenix Mutual writing fire as well as marine policies was no less doubtful than that of the American Mutual—marine only.

Note assets of vanished credit-founded corporations lingered to the last among the conditions determining the final settlements. The Bank of Penn Township was garnisheed in respect to a deposit where an attachment execution had been issued on a judgment for \$676.50 on a guarantee note of \$600 given by Osborn Conrad to the Commercial Mutual Insurance Company, December 1, 1858; the directors of this company, then in liquidation, passed a resolution that "the unsettled business, books and papers of the company be placed in the hands of the committee now holding the guarantee notes, viz., D. S. Winebrenner, D. Smith, Jr., and George F. Thomas, who shall be empowered

stowage, 1,197 leaky, 743 loss of anchors and chains; 194 steamers, machinery damaged or short of coal; 349 mutiny, 2,048 loss of sails, bulwarks, etc., and 40 water-logged. Out of these 11,711 casualties, 2,234 involved total loss of the ship, and 1,946 total loss of cargo. Total of lives reported lost was 2,644. It was further shown that of the casualties reported, 10,627 were to sailing vessels and 1,084 to steamers, and that in the latter case one-third were from collisions, while the collisions of sailing vessels comprised only 15 per cent. of the casualties to them. No steamer suffered from piracy. The proportion of damages to steamers by fire was about twice as great as to sailing vessels. Instances of mutiny appeared to be almost as frequent in steamers as in sailing vessels. It was from leaks, loss of anchors or chains or sails that sailing vessels exhibited a great preponderance of mishaps.

\* Superintendent Barnes, of the New York insurance department, reported for the ten New York marine offices an increase over 1865 of \$3,223,199 in marine and inland premiums received, and an increase of \$3,939,606 in marine and inland losses paid. "The average percentage of loss on premiums was 71.64 in 1865 (not including the losses of the Columbian), and 83.13 in 1866." The inland and marine risks of the fire insurance companies doing business in New York resulted as follows:—

*New York Companies.*

	Risks written.	Average rate of premium.	Percentage of Loss to	
			Risks written.	Premiums.
1865, . . . . .	\$271,588,107	0.978	0.744	76.05
1866, . . . . .	378,880,003	1.144	1.003	87.67

(Fire risks of total New York companies 70.65 per cent. of loss to premium received in 1865, and 73.67 per cent. in 1866.)

*Companies of Other States.*

1865, . . . . .	\$155,357,694	0.986	0.902	91.53
1866, . . . . .	193,100,917	1.166	1.150	98.64

(Fire risks of companies of other States 62.36 per cent. of loss to premium in 1865, and 74.83 per cent. in 1866.)



to make settlement and employ the solicitor of the company to make collections." Suit on Conrad's note was then pending, and judgment thereon was recovered March 11, 1859. It was represented that then the directors agreed "that if he [Conrad] will pay ten per cent. of the amount of said note, we will receive it as full satisfaction for said judgment." Conrad then tendered \$60 to the treasurer of the company, and afterwards to the solicitor of the company, both of whom declined to receive it; but such 10 per cent. was received by D. Smith, Jr., one of the committee, who gave Conrad a receipt therefor in full settlement "of the judgment debt and notes, satisfaction to be entered upon the record as soon as the costs can be adjusted"; and, June 16, 1864, he paid into court all the costs. In the District Court, January 24, 1866, (Bank of Penn Township, garnishee,) there was a verdict for the defendant, Conrad, but, March 24, the court, Stroud, J., entered judgment for the plaintiff, notwithstanding the verdict. This was assigned for error, and, February 19, 1867, the Supreme Court reversed this judgment as irregular; "though it may be there was nothing in the way of a judgment against the garnishees." (4 P. F. Smith, 373.)

Something in the way of legislative discrimination, as advancing with the increase of non-State companies in number and character of business, was shown by a bill approved March 28, 1868, entitled An Act relative to certain Foreign Insurance Companies, wherein the provisions of the act of April 9, 1856, and the several supplements thereto, were extended to live-stock insurance companies incorporated by "other States," and to "foreign insurance companies of every character and description not designated in the acts aforesaid."

In addition to the task of following the course of State legislation and judicial interpretation imposed upon the underwriter, the decisions of the internal revenue department of the central government exacted attention and demanded conformity thereto. It was decided that any written or printed words transferring the ownership of a policy required the same stamp as the original policy—the penalty for non-compliance applying to the party writing the words which gave effect to the transfer. Any material change in policy, such as change in property insured or amount insured, made by erasures, interlining, or otherwise, changed the policy to a new contract requiring a new stamp. A permit for a builder's risk, or the change of policy terms in minor points usually required, demanded a specific stamp as an agreement.

Inland marine risks had now been discontinued by the Fame Insurance Company. December 18, a project entitled the Guardian Fire and Marine Insurance Company was started, and in this there was a futile attempt to secure marine and inland as well as fire risks.

In March, 1868, the American Exchange and Review made this note of the last of the distinctive Philadelphia "marines":—

The American Mutual Insurance Company of Philadelphia, a marine company organized in 1825 [1831], has been continued down to the present time, though its capital and assets have always been small. Its last dividend was declared November 5, 1866, and this amounted in the aggregate to \$2,125.57, being 70½ cents on each of 3,015 shares. The total capital paid in at this date was \$35,448.21. Since then the company

has sustained losses large in proportion to its means, and about two-thirds of its capital has been swept away. Its remaining assets are possibly sufficient to discharge the accrued indebtedness.

State legislation in the direction of furthering the business of Pennsylvania companies in other States was the purpose of an enactment approved April 6, 1868, authorizing the deposit by a company with the auditor-general or other proper State officer, "for the benefit of all its policyholders," securities of designated value, such deposit to be certified to the proper officer of any other State in which the Pennsylvania company desired to transact business, and where the laws thereof required such deposit. (Pennsylvania Insurance Digest, 12, 13.) By act of April 8, the provisions of the act of April 24, 1857, (service of process,) were extended to life and accident companies, (Pennsylvania Insurance Digest, 27,) and, April 11, an act was approved which was in accordance with the comprehensive character of its title, viz.: An Act to revise, amend, and consolidate the Several Laws regulating the licensing of Foreign Insurance Companies. (Pennsylvania Insurance Digest, 15.) This codification applied to "any fire, marine or life insurance, trust or annuity company, or any health or casualty insurance company [annual State license \$500], or any company for the insurance of horses, mules, cattle and live stock, or for insurance companies, firms, associations or co-partnerships of any character or description [annual State license \$200], whether the same are established upon the stock or mutual principle or plan, incorporated by any other State of the United States, or by any foreign government, or organized under the laws thereof." Former acts in relation thereto were repealed, excepting the inoperative act of May 7, 1857. Annual exhibit according to act of April 9, 1856, was retained. For the much-condemned payment to the district attorneys of the counties of 10 per cent. of the 3 per cent. tax on gross premiums, there was substituted "five per cent. on all sums not exceeding five thousand dollars, and two per cent. on all excess over five thousand dollars" (to be received by each district attorney) "of the amount of State tax paid into the treasury by all such agents as shall be named in his annual report, and doing business within his jurisdiction."

This law went into effect in August, and Instructions to Agents as to practices of the department in granting licenses were issued by Auditor-General Hartranft. For year ended November 30, 1868, \$48,499.95 were paid to the State for licenses, and \$171,892.81 were paid as taxes on \$5,729,760.30 of life, fire and miscellaneous premiums—more than one-half life premiums.

There was a similar codification by act of May 1, 1868, of the several laws taxing Pennsylvania corporations. (Pennsylvania Insurance Digest, 28.) The Pennsylvania Insurance Digest was issued this year.

While insurance statute-making in the State legislature was large in quantity and poor in quality, and marked by the incongruities of over-legislation, it was not altogether without signs of progress. In the years that were gone the mere advertisements of the companies had often contained the sentence "rates as low as consistent with security," and the sound and simple principle that the premium is the security—*i. e.*, premium in its asset



relations, a recognition of premium as a liability, as well as a receipt—was scarcely thought of in the legislation; yet the Contributionship had begun to build itself up in 1763 by the practice of such a principle\* without the enunciation of any formal theory, and the earliest charters prohibited the treatment of any part of the undetermined risk as earned. Companies had been coming, and going nearly as fast as coming, while the exceptional company continued as a sort of accident, and the explanations of the numerous failures and discontinuances were given as “fraud,” “incompetency,” “lack of capital,” and “bad luck”; and such inanities served rather to conceal than to disclose the fact that insurance was attempted without the establishment of the foundation upon which it could be made *permanent*, though the insurance corporation is, in its constitution, not a mere enterprise for the profit or loss of particular parties, but a public security. Two more bills introduced in 1869 were respectively entitled An Act to establish an Insurance Department and An Act to provide for the Incorporation and Regulation of Insurance Companies. The former called for a life insurance reserve according to the Combined Experience table, 4 per cent.; the latter called for an annual statement superior in detail to any yet enacted by the State. Both bills failed of enactment.

In May, 1869, the Philadelphia Underwriter, a monthly published by S. E. Cohen, appeared.

Internal revenue imposts were shown as an inquisition into the particulars of the business by these decisions of the commissioner:—

If the individual members of a firm of insurance agents, doing business in partnership, negotiate insurance, solicit risks, or in other manner act as insurance agents, at different places at the same time, *each* member of such firm should be provided with a special tax receipt in the name of the firm; also, if a clerk or other employé of an insurance agent solicits risks, negotiates insurance, or in other manner acts as an insurance agent *for such agent*, he is liable to a special tax.

Possibly the largest product of elaborate governmental taxation is falsification and perjury. In theory, the largest introduction of various subjects of taxation distributes the burden equably among the several divisions of a community, thereby exacting tribute from production and employment; but duties laid upon few subjects, part of general use and part of luxurious indulgence, bring in general contribution, and making the taxation less complicated, produce efficiency in collection, reduce the cost of collection, and avert, in large part, the demoralization resulting from the resorts to escape taxation. If the insurance *corporation* be a proper subject for taxation, the insurance *person*, as such, is not; but further, if taxation be less offensive as a generalization than as a particularization, then the *corporation* should be taxed, and not the *insurance* corporation. If a man pays a tax upon his house or his furniture, why should he pay another tax thereon by tax enhancement of the premium for insurance on the house or the furniture? He would pay the same money if he paid the two taxes as one, whether the assessment be upon the insurance alone or on the property alone. The question involved in the

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\* “The great principle of 1763.”—HORACE BINNEY.



former case would be, whether it would be wisdom and economy to employ and pay the insurer as a tax collector.

The Phoenix Mutual was now nearing its end, the directors voting to cease writing new risks, but to carry those outstanding to their termination; and the latter resolution made the company a participant in the greatest fire loss caused by a single conflagration that had yet occurred in the city. The stock of the Phoenix was commanding about \$3 per share in the market, while the shares of companies writing marine risks were advancing in price.

The American Mutual was also retiring from business. So, one hundred and forty-eight years after the opening of John Copson's office "at his House in the High Street," the practice of distinctive Philadelphia marine underwriting closed; closed with respect to local institutions. The personal underwriter was gone; the corporation which, like him, would write only against maritime perils, had now followed him. Old corporations remained which had been of the exclusive marine type, but these were changed, and the signs of the time in which we make this record betoken that the local marine office, such and such only, will return no more forever in that city in which corporate underwriting in North America began.

The act of March 26, 1867, enlarging the jurisdiction of the Courts of Common Pleas in relation to granting charters of incorporation, conferred upon such courts authority "in all cases in which the same is authorized to be granted under existing laws by the Supreme Court of this commonwealth." This act made valid charters previously granted by such courts without authority, and in addition to authorizing live-stock charters, gave power to incorporate fire insurance companies with "all the rights, powers and privileges," and "subject to all the restrictions and provisions, of the general law regulating fire insurance companies, approved April 2, 1856, and the several supplements thereto." March 7, 1869, the following supplement to this act was approved:—

SECTION 1. Be it enacted by the senate and house of representatives of the commonwealth of Pennsylvania in general assembly met, and it is hereby enacted by the authority of the same, That insurance companies created by the Courts of Common Pleas, under the provisions of the act of March twenty-sixth, one thousand eight hundred and sixty-seven, entitled "An Act to enlarge the jurisdiction of the Courts of Common Pleas of this commonwealth," shall be chartered by the said courts as of that class as set forth and defined in section seven of the act of April two, one thousand eight hundred and fifty-six, entitled "An Act to provide for the incorporation of insurance companies"; and all insurance companies so incorporated shall have such amount of capital stock as may be determined by the court (not less in any case than fifty thousand dollars) at least fifty per cent. of which shall be paid in before any certificate of incorporation shall be issued.

SEC. 2. All insurance companies organized under the provisions of this act, or the acts to which this is a supplement, shall pay into the State treasury the same bonus and in like manner as prescribed by the fifteenth section of the act approved May one, one thousand eight hundred and sixty-eight, entitled "An Act to revise, amend and consolidate the several laws taxing corporations, brokers and bankers," and such tax on dividends on capital stock as is now or may hereafter be required by law; and said bonus shall be paid to the State treasurer before the certificate of incorporation shall be issued.

SEC. 3. All payments for stock required to be made under the provisions of said act of April two, one thousand eight hundred and fifty-six, may be made in lawful money of the United States.

Gold and silver being as yet demonetized, "lawful money of the United States" was substituted for the "gold, silver or notes of specie-paying banks,"

required by Section 3 of act of April 2, 1856, in payment of subscription to capital stock.

In accordance with the international character of marine insurance, the Insurance Company of North America gave notice late in 1869 that it was "now prepared to issue certificates of insurance payable in London at the counting-house of Messrs. Brown, Shipley & Co." In current business among the companies generally, the results of marine writing were in favorable contrast with those of the fire risks. With its fire risks less than marine risks, the ratio of loss in 1869 on the new fire business of the Union Mutual was such that while in the marine department the loss was less than 51 per cent. of the earned premium, in both the fire and the marine department the loss was above 79 per cent. of the earned premiums.

Conspicuously the Insurance Company of North America was making headway. Whatever might have been the problems presenting themselves in the uncertainties of 1860, the decision of the management was to go forward, and it advanced through internecine strife, through the decline of the American carrying trade, and through the irregularities of the fire hazard, which was tending to cumulative development with great range in annual fluctuation. This company wrote \$100,771,027 of fire risks in 1869, against \$52,722,491 of marine risks; its contemporary in organization, the Insurance Company of the State of Pennsylvania, wrote \$12,061,416 of fire risks and \$6,467,317 of marine risks;—the result in the two cases was:—

<i>Fire.</i>		
	Gross premiums received.	Gross amount paid for losses.
Insurance Company of North America, . . . . .	\$1,138,841 95	\$622,866 82
Insurance Company of the State of Pennsylvania, . . . . .	67,112 76	181,932 59
<i>Marine.</i>		
Insurance Company of North America, . . . . .	810,856 91	412,520 02
Insurance Company of the State of Pennsylvania, . . . . .	121,470 84	94,338 43

The Delaware Mutual, with its marine writing in excess of its fire writing, had for year ended October 31, 1869, 45.7 per cent. of marine loss to earned marine premium, and 62.9 per cent. of fire loss to earned fire premium. The Insurance Company of North America made an asset gain of \$435,257.77 in 1869. The Delaware Mutual had a year's earnings of \$434,619.63.

The Philadelphia board of marine underwriters was composed in 1870 of all of the few Philadelphia companies issuing marine policies—Arthur G. Coffin, president. Two or three authorized agencies were writing inland policies. With the characteristics of the institutions starting at the beginning of the century, the affairs of the Phoenix Mutual were wound up under a special act of the legislature, and after discharging every matured claim, and making provision for whatever obligation was yet undetermined, there remained a small part of the capital stock for distribution among the stockholders.

In 1869 the Insurance Company of North America paid for national taxes and duties \$38,433.25. With change in Federal revenue tax, the 1½ per cent. on premiums was abolished from and after October 1, 1870, and the 5 per

cent. tax on dividends was reduced to  $2\frac{1}{2}$  per cent. on and after August 1, 1870. Stamps on policies and renewals were yet retained.

The following Federal resolution was adopted July 13, 1870:—

*Resolved*, By the senate and house of representatives of the United States of America in Congress assembled, That the act entitled "An act to provide internal revenue to support the government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and the several amendments thereunto, shall not be construed so as to impose a tax on any undistributable sum added to the contingent fund of any fire, marine, inland, life, health, accident or like insurance company, or any unearned premium or premiums received for risks assumed by such companies, or any moneys paid by mutual life insurance companies to their policyholders.

Value of exports from Philadelphia, 1870, \$16,694,478; imports, \$14,952,371. For year ended June 30, 1870, the foreign commerce of the port comprised:—

SAILING VESSELS.		
<i>Entered.</i>		
	Vessels.	Tonnage.
American, . . . . .	508	177,938
Foreign, . . . . .	357	122,068
	865	300,006
<i>Cleared.</i>		
American, . . . . .	350	126,541
Foreign, . . . . .	426	156,098
	776	282,639
STEAMERS.		
<i>Entered.</i>		
American, . . . . .	17	20,362
Foreign, . . . . .	None.	
<i>Cleared.</i>		
American, . . . . .	12	15,546
Foreign, . . . . .	1	358
	13	15,904

March 3, 1871, the following act of Congress was approved:—

Be it enacted by the senate and house of representatives of the United States in Congress assembled, That from and after the passage of this act, no tax shall be imposed upon any undistributable sums added to the contingent fund of any fire, marine, inland, life or like insurance company, nor upon any unearned premium or premiums received for risks assumed by such companies, nor shall any tax be hereafter collected which may have been assessed, or which shall have become liable to be assessed, upon any sums, fund or premiums, prior to the passage of this act.

In the settlement of claims under act of March 3, 1849, for vessels lost in the military service of the United States, Comptroller Brodhead decided that the government was subrogated to the rights of the owners in respect to insurance, and that consequently only the value of the lost vessel, less the amount insured, would be paid. The underwriters, on the contrary, claimed that having paid the insurance, they were subrogated to the rights of the owners, and had therefore a legal claim for reimbursement from the government. The comptroller stated that the party which received the premium ought to stand the risk; and that it would be a novel and unsound principle in law which would give an insurance company the premium and impose the risk upon the United States. An opinion of a former attorney-general was invoked in favor of the claims of the insurers, but the secretary of the treasury sustained the comptroller, and declined payment.



In the case of the award to the government of the United States by the commission at Geneva, in satisfaction of the claims arising from the spoliations on American commerce by the Anglo-Confederate cruisers, the right of subrogation was also denied to the underwriters by government officials. That is to say, such award was construed as being compensatory to the insured for war premiums.

With and without subrogation, the subjects insured were two different risks. With the insurer subrogation is salvage; with salvage the premium is rated as for net loss; without salvage the premium is rated as for gross loss.

A bill to create a State insurance department passed the house in the last days of the legislative session of 1871, but was defeated in the senate. Still the ultimate establishment of such a department was now about assured, and in the National Insurance Convention of State Insurance Officials inaugurated in May, 1871, and meeting in October following, in New York, to carry out its purposes, Pennsylvania was represented by Auditor-General Hartranft. This convention aimed to secure uniformity, or at least harmony, in State insurance laws, with like State standards of security, valuation, reservations, etc., and with like blanks for annual reports of companies to departments. The liability adopted on unexpired marine policies was the entire premium.

In the undistributed fund of the Phoenix Mutual there remained, awaiting adjudication, a sum due on the loss of a ship called the Shakespeare. Policy for \$5,000 was issued December 15, 1865, by the company to B. J. H. Trask, "to continue until the 15th day of December, 1867, at noon, and if then on a passage, with liberty to renew for not exceeding three months," etc., "for account of whom it may concern; loss, if any, payable to the assured, or order." July 18, 1867, a mortgage on the ship was executed to William Bell for \$40,000, and the mortgage contained a covenant by Trask to keep the vessel insured for the benefit of the mortgagee. There was no formal or written transfer of the policy, but it was endorsed in blank by Trask, and given to the mortgagee in pursuance of the covenant.

Partial loss occurred, and upon the basis of \$30,667.67 adopted by the co-insuring New York offices, the share of the Phoenix Mutual was one-sixteenth, or \$1,916.67, and the company claimed a deduction therefrom of amount of a premium note upon which judgment had been obtained. While the claim was in course of settlement, the Phoenix Mutual was served with an attachment at the suit of the Insurance Company of the State of Pennsylvania for any funds of B. J. H. Trask held by it. The policy contained this clause:—

It is also agreed that no assignment of this policy shall be valid unless the premium has been paid, or note given therefor is further secured by a previous endorsement of the person or persons for whose benefit said assignment is intended, and unless the consent of the insurers be first obtained.

At the trial, District Court, the question was whether William Bell, mortgagee of the vessel and assignee of the policy as collateral security, was entitled to receive the amount due by the insurers in preference to the attaching creditor. Bell appeared and took defence under the garnishee.

The court instructed the jury to find for the plaintiff, and reserved two points:—

1. Whether the endorsement of the policy by Trask, and his delivering it to Bell, in pursuance of the covenant to keep the ship insured for the benefit of the latter, was a good, equitable assignment of the amount, if any, that might become due under the policy to Trask, constituting an answer to the attachment subsequently laid on the garnishee?

2. Whether the agreement by the garnishee to appropriate the amount due to Bell on the policy as assigned, to the payment of the premiums due by Trask, was a waiver of the right to rely on the non-payment of premiums by Trask as a reason why the assignment should be void?

The verdict was for the plaintiff, finding in the hands of the garnishee \$1,283.93.

The court afterwards entered judgment for the garnishee on the points reserved, *non obstante veredicto*.

Hare, P. J.: . . . . . We may therefore draw the following inferences with regard to the case in hand: First, that the assignment should be viewed as a transfer of the claim for damages in event of loss, and not of the policy as a contract to insure; and next, that this claim might be transferred without the consent of the insurers, notwithstanding any provision to the contrary in the contract. If, however, we thought differently on these points, we should still be of opinion that the plaintiffs were not entitled to judgment. The policy is against losses by the perils of the sea, and might, consequently, pass to any one who acquired a title to the vessel, unless restrained. (*Powles vs. Jones*, 13 M. & W., 101.) The restraint imposed was not absolute, but that no transfer should be valid without the consent of the insurers, "unless the premium had been paid, or the note given therefor was further secured by the previous endorsement of the person or persons for whose benefit the assignment was intended."

The premium was not paid when the insurance was effected by Trask, nor was the note given for it endorsed by Bell when the policy was subsequently transferred; but on the 16th of September, 1868, the garnishees came to a settlement with Messrs. Moody & Telfair, acting for Bell, by which it was agreed that the loss should be paid to him after deducting the amount of a judgment which had been obtained for the premiums due by Trask. This arrangement took place prior to the attachment, and with full knowledge that Bell claimed as assignee. The effect was to satisfy the premiums by setting them off against the amount due under the assignment. It was, therefore, not only an admission by the garnishees that the assignment was valid, but a bar precluding them from alleging the non-payment of premium as a reason why it should be void. A provision against the transfer of a policy is intended for the benefit of the insurers, and, if waived by them, cannot be set up by a creditor under a subsequent attachment.

Plaintiff took a writ of error, and the judgment was affirmed by the Supreme Court. (21 P. F. Smith, 31.)

There was some reaction in 1871 from the declining marine writing of the country; but with some increase of premium as compared with the previous year, there was a greater ratio of increase in loss. Outside of Philadelphia, particularly in New York and Maine, the personal marine insurer again appeared in Lloyd's associations. (The California Lloyd's which had been organized at San Francisco in 1861 discontinued in 1867.) The New York marine companies wrote total premiums, 1870, \$10,318,314; 1871, \$11,444,846;—paid losses, 1870, \$5,071,428; 1871, \$6,859,064. An increase of premium with greater increase of loss characterized 1872.

Section 36 of an Act of June 6, 1872, provided, "That on and after the first day of October, 1872, all the taxes imposed by stamps under and by virtue of Schedule B of section 170 of the Act approved June 30, 1864, and the several acts amendatory thereof, be and the same are hereby repealed, excepting only the tax of two cents on bank checks, drafts, or orders."



## CHAPTER XII.

*Repeal of Tax on Net Earnings of Joint-Stock Insurance Companies—Provision for Assignees—Establishment and Organization of a State Insurance Department—Data of the Philadelphia Fire-Marine Offices—The Millville Mutual—Striking 'Longshoremen and Proper Lading—Geneva Award Law—The Expositor, the Avalanche and the Insurance World—Alleged Blackmailing Attempt—The General Insurance Company of Dresden and the Mercantile Mutual, of New York—The Financial Panic of 1873—The Hock Age Case—The Business of the Anthracite—Increase of Capitals—The Five Philadelphia Fire-Marine Companies' Pennsylvania Business in 1874—Pennsylvania Marine and Inland Business of Non-State Companies—Insurance Companies transacting Business in Philadelphia in 1875—The United States Review—The Rheinisch Westfalen Lloyd—Fixed Limits to Ocean Steamer Routes—Decision as to a Collision—A New British Merchant Shipping Act—Death of Horace Binney—Withdrawals of Marine Agencies—The General Incorporation Act of April 29, 1874—Supplement, May 1, 1876, to State Department Act and Proposed Increase of Cash Capital thereunder—The Union Mutual resumes the Status of an Unmixed Stock Company—The Act for the Taxation of Corporations of April 24, 1874—Testing the Three Per Cent. Premium Tax—Banquet to Cornelius Walford, of London—Statistics of Companies—Tax upon Premiums of State Insurance Corporations—Marine and Inland Business in Pennsylvania, 1876-77—Resignation of President Arthur G. Coffin—Death of William Welsh—Tax on Receipts out of the State; Decision—The Burden of Pennsylvania Insurance Taxation—The Anthracite goes into Liquidation—The Twelve York-Antwerp Rules of General Average—Time extended for holding Real Estate purchased under Executions—Legislation on Misdemeanors of Officers, Directors, Agents, Employés and Members—Act concerning Fraudulent Agents—A Question of Legal Process—Trial and Conviction, Barratry and Arson—Taxation and Tax Legislation—The Mercantile Marine, of Boston, and the Phenix, of Brooklyn—Real Estate Assets—The Insurance Company of North America in the Decade ended December 31, 1879—The Union and the Delaware Mutual in 1879—Scrip ordered redeemed uncalled for—The Four Philadelphia Offices writing the War Risks claim upon Geneva Award Fund by Right of Subrogation—Geneva Award Debate in the United States Senate—The Port in 1880—Proposition for Increase of Capital and Net Surplus by the Directors of the Insurance Company of North America and Vote of Stockholders thereon—The Issue of the New Stock—Marine and Inland Losses—Resignation of President Richard Somers Smith—The Great Western, of New York—The Contributionship appeals from the Tax on its Income—Act to enable Non-State Insurance Companies to hold Real Estate in Pennsylvania—Exemption of Pennsylvania Companies from Tax on Non-State Business—Amendment of Section 27 of Act of May 1, 1876—Custom, and Contribution for Jettisoned Deck Cargo—A National Association of Marine Underwriters—Death of Arthur G. Coffin—Marine Agencies' Pennsylvania Business in 1881—Asset Values by Companies' Reports and State Department Examiners' Reports—Inland, Marine and Ocean Risks, comparatively, in 1881—Accumulated Net Surplus not Constructive Dividend—Circuit Court Decisions—Law for distributing the Geneva Award Fund—No Constructive Total Loss in Bottomry—Interest and Contingency—"From 1792 to 1882"—Tabulation for 1882—The Decade ended December 31, 1882—Time as an Element of Hazard—The Creative Work of the Marine Policy. (1873-1882.)*



SECTION 2 of an act approved March 21, 1873, relieved Pennsylvania insurance companies of 3 per cent. tax on their net annual earnings. It was as follows:

SEC. 2. That so much of the sixth section of the act entitled "An act to revise, amend and consolidate the several laws taxing corporations, brokers and bankers," approved May first, Anno Domini one thousand eight hundred and sixty-eight, as imposes a tax upon the net earnings or income of incorporated companies liable to the tax on capital stock, under the fourth section of said act, be, and the same is hereby repealed, said repeal to take effect from and after the first day of November, Anno Domini one thousand eight hundred and seventy-two; *provided*, that this act shall not be construed to release any taxes which accrued prior to the first day of November aforesaid, nor in any way to affect suits heretofore or hereafter brought in the name of the commonwealth for the collection of such taxes, and the penalties and interest attached thereto, nor to release private bankers, brokers or incorporated companies having no taxable capital stock, but for such purposes the section hereby repealed shall continue in full force and effect.

Previous to the approval of this act, an act was approved March 14, authorizing assignees of fire, life and marine policies to sue in their own names "upon the happening of the contingency provided against."

State insurance supervision had been in force in several States when, April 4, 1873, a bill was approved which established a State insurance department in Pennsylvania. This act prescribed the current safeguards, forfeitures, etc., and required an annual statement from every company (excepting premium-note mutual fire companies), in the form defined by such blank as the commissioner should adopt. Article sixth on the duty of the State commissioner (Section 5), was as follows:—

Having charged against a company the reinsurance reserve, as above determined, for fire, inland and marine insurance, and adding thereto all other debts and claims against the company, he shall, in case he finds the capital stock of the company impaired to the extent of twenty per centum, give notice to the company to make good its whole capital stock within sixty days, and if this is not done, he shall require the company to cease to do new business within this State, and shall thereupon, in case the company is organized under authority of this State, immediately institute legal proceedings, as required in this act, to determine what further shall be done in the case. Any company receiving the aforesaid notice of the insurance commissioner to make good its whole capital stock within sixty days, shall forthwith call upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company; and in case any stockholder of such company shall neglect or refuse to pay the amount so called for, after notice personally given, or by advertisement in such time and manner as the said commissioner shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company, the value of such shares for which new certificates shall be issued to be ascertained under the direction of the said commissioner, and the company paying for the fractional parts of shares; and it shall be lawful for the directors of such company to create new stock, and dispose of the same, and to issue new certificates therefor to any amount sufficient to make up the original capital of the company. Whenever the capital stock of any joint-stock fire or marine insurance company of this State becomes impaired, the commissioner may, in his discretion, permit the said company to reduce its capital stock and the par value of its shares in proportion to the extent of impairment; *provided*, that in fixing such reduced capital, no sum exceeding twenty-five thousand dollars shall be deducted from the assets and property on hand, which shall be retained as surplus assets; *and provided*, that no part of such assets and property shall be distributed to the stockholders; *and provided further*, that the capital stock shall not be reduced to an amount less than that required by law for the organization of the company.

John M. Forster, who for several years had charge of the insurance bureau of the auditor-general's office, was appointed commissioner. Such State departments had become not merely a surveillance or census of insurance, but to a large degree a regulation of the business and an authority over the

companies. They were an example of over-legislation in respect to an expedient of practical utility, but not fundamentally false in principle. The alleged utter corruption of the New York insurance department, after the resignation of Superintendent Barnes, had been matter of investigation, denunciation and criticism. Still, the standards and investigations of the State departments had lessened the formation and decreased the operations of fraudulent companies, and while not capable of the complete eradication of insurance weakness and fraud, they, in a measure, indicated wherein the position of one company was discriminated from that of another. Sections 6 and 14 of the act are here quoted:—

SEC. 6. The commissioner may employ an actuary to make the valuation of the life policies, at the compensation of not exceeding three cents for each thousand dollars of insurance, to be paid by the company for which the valuation is made. And there shall be paid by every company to which this act applies, the following fees towards defraying the expenses of enforcing its provisions: For filing certified copy of charter, twenty-five dollars; for filing the annual statement or certificate in lieu thereof, twenty dollars; for each certificate of authority and certified copy thereof, two dollars; for every copy of any paper filed in the department, the sum of twenty cents per folio; and for affixing the official seal to such copy and certifying the same, one dollar; for official examinations of companies under this act, the actual expenses incurred.

SEC. 14. That any person or persons, or corporation, receiving premiums, or forwarding applications, or in any other way transacting business for any insurance company or association not of this State, without having received authority agreeably to the provisions of this act, shall forfeit and pay to the commonwealth the sum of five hundred dollars for each month or fraction thereof during which such illegal business was transacted; and any company not of this State doing business without authority, shall forfeit a like sum for every month or fraction thereof, and be prohibited from doing business in this State until such fines are fully paid.

While repealing the \$500 license fee for non-State companies, the act retained the 3 per cent. non-discriminating tax on gross premiums of non-State companies.

One of the first proceedings of Commissioner Forster was to notify agents of companies that a tax of one dollar per head must be paid on subordinate agents, otherwise the penalties of Section 12 of the act of April 11, 1868, would be enforced.

By the act of April 4, 1873, the insurance commissioner was required to institute an examination, as soon as practicable after August 4, into the affairs of every insurance company of the State; and forty-seven companies were subjected to such inspection before the close of the year. Concerning the character, accompaniments and results of these inquiries the commissioner said:—

The examinations already made have not been without some good results. It may be remarked, however, that no amount of scrutiny can always prevent imposition. Securities, good in themselves, may be borrowed for the emergency, and the fraud sustained by perjury. Against such practices there can be no absolute protection. Temporary success in the insurance, as in any other business, may be attained by men who will make use of such means. Mortgages furnish the most convenient cover for fraud. While they are the very best form of investment, they may be the cloak for the very worst. The difficulties in the way of a thorough examination of mortgage securities are almost insurmountable. It is practically impossible to have the title to each piece of real estate, and its value, passed upon by those competent to judge. The entire year would be too short to accomplish this in the case of a single large company. In prescribing the investments by companies, it would be well to limit the amount of capital to be placed in mortgage securities, and to confine them to property within this State.



Considerable time must elapse before the commissioner can acquire personal knowledge of the standing of each company. Direct inquiries as to the solvency of this or that company are often embarrassing, as they involve the expression of opinions which each inquirer should form for himself from the company's own exhibit. If the department could critically examine each company, strengthen the weak, wind up the insecure, expose the fraudulent, secure the payment of losses, prevent the possibility of imposition, and return satisfactory answers to all interrogatories,—all this within the short space of a few months,—it would not more than meet the expectation entertained in some quarters. The powers of the commissioner are carefully guarded, and his proceedings subject to review in the courts. He cannot act precipitately, or without due proof, which those most eager to invoke his interposition generally fail to furnish.

The positions of the Philadelphia fire-marine offices were, by the first report of the State commissioner, as follows, for and at the close of 1873:—

1873.

	Anthracite.	Delaware Mutual Safety.	Ins. Co. of North America.	Ins. Co. of the State of Penn'a.	Union Mutual.
Capital, paid up, . . . . .	\$40,850 00	\$360,000 00	\$500,000 00	\$200,000 00	\$150,000 00
Assets, . . . . .	126,581 27	1,628,302 42	3,302,831 64	511,466 51	271,845 11
Liabilities (including capital), . . .	135,616 92	874,032 76	2,802,546 83	460,064 55	270,827 98
Income (cash), 1873, . . . . .	81,779 59	1,347,296 87	3,522,586 89	207,971 94	169,586 08
Disbursements, 1873, . . . . .	103,329 23	1,352,596 96	3,518,040 24	371,695 97	168,757 63
—	—	—	—	—	—
Total premiums received from organization to date, . . . . .	1,473,884 09	. . . . .	44,000,000 00	. . . . .	12,725,295 00
Total losses paid from organization to date, . . . . .	1,038,253 90	. . . . .	31,000,000 00	10,500,000 00	9,491,058 00
Total dividends declared from organization to date, . . . . .	53,390 02	. . . . .	8,300,000 00	. . . . .	1,612,599 00

These data show financial position ranging from \$9,035.65 impairment of the capital of the Anthracite, to the \$754,269.66 net surplus of the Delaware Mutual. The Anthracite and Union Mutual appear as having exact record of total premiums received and losses paid from their commencement.

#### Fire Insurance.

	Risks written in 1873.	PERCENTAGE OF		
		Premium rec'd (gross) on risks written.	Losses paid to risks written.	Losses paid to premium received.
Anthracite, . . . . .	\$4,820,328	1.10	1.14	103
Delaware Mutual, . . . . .	30,230,128	0.82	1.42	172
Ins. Co. of North America, . . . . .	142,681,658	1.40	1.02	73
Ins. Co. of State of Penn'a, . . . . .	6,164,431	1.81	2.73	150
Union Mutnal, . . . . .	7,733,218	1.38	1.08	78

#### Marine and Inland Insurance.

Anthracite, . . . . .	615,423	4.84	3.85	79
Delaware Mutual, . . . . .	65,634,018	1.38	1.16	83
Ins. Co. of North America, . . . . .	148,737,357	1.29	1.14	87
Ins. Co. of State of Penn'a, . . . . .	4,034,249	3.41	5.22	153
Union Mutual, . . . . .	2,392,621	3.08	2.71	88

The fire loss of the Philadelphia fire-marine companies was exceptional. On total business in 1873 of all the Pennsylvania joint-stock companies, the percentages were as follows:—

	Premium (average).	Losses to risks written.	Losses to premium received.
Fire, . . . . .	1.39	0.81	58%
Marine, . . . . .	1.40	1.25	88%



## PENNSYLVANIA BUSINESS.

*Fire.*

	Risks written.	Premiums received.	Losses paid.
Anthracite, . . . . .			
Delaware Mutual, . . . . .	\$17,582,754	\$133,910 53	\$15,957 08
Ins. Co. of North America, . . . . .			
Ins. Co. of the State of Penn'a, . . . . .	5,494,632	65,069 65	15,396 61
Union Mutual, . . . . .			

*Marine and Inland.*

Anthracite, . . . . .			
Delaware Mutual, . . . . .	36,624,179	343,859 38	388,118 76
Ins. Co. of North America, . . . . .			
Ins. Co. of the State of Penn'a, . . . . .	5,052,446	71,909 16	12,103 48
Union Mutual, . . . . .			

Ætna, Hartford, . . . . .	25,771	195 44	. . . .
Amazon, Cincinnati, . . . . .	9,815	388 55	325 70
Northwestern Nation'l, Milwaukee, . . . . .	45,581	1,056 00	. . . .
Phenix, Brooklyn, . . . . .	8,988	97 94	. . . .
Williamsburgh City, Brooklyn, . . . . .	87,369	342 78	555 41

The Millville Mutual Marine and Fire Insurance Company of Millville, N. J., though having no agency in Pennsylvania, was writing upon marine risks of citizens of Philadelphia. Duy & Woods were appointed agents of the Mercantile Mutual (exclusively marine), of New York, which, about the close of 1873, was duly authorized to transact business in Pennsylvania.

Stowage of cargo called upon the marine underwriters of the port to intervene, in effect, between striking 'longshoremen and the carriers, early in 1874. The underwriters demanding proper lading before writing the risks, some of the strikers had necessarily to be reemployed. This course was defended on the ground that the proper lading of cargo was an indispensable condition to insurability.

A Geneva Award bill became a law June 23, 1874, which put among the "admissible" claims those of the insurer "whose losses, in respect to war risks, exceeded the sum of the premiums or other gains upon, or in respect of, such war risks," and those of the insured for loss in excess of compensation received.

The Expositor, an insurance monthly previously issued in New York, became, for a period, a Philadelphia publication, beginning in July; Freeman & Ross, publishers. Two other insurance sheets were also temporarily appearing in the city at this time, called the Avalanche and the Insurance World; R. B. Caverly, publisher. Caverly was charged by L. D. Cortright, of Chicago, with attempting to levy blackmail upon the amalgamated Republic Life and National Life companies. Caverly, in turn, charged Cortright *et al.* with conspiracy and defamation. Caverly in a few months withdrew from the city, and the Avalanche passed into other hands, and a few numbers more were issued. The Insurance World was removed to Pittsburgh, and, conducted by J. C. Bergstresser, became a permanent publication.

December 4, *Die Allgemeine Versicherungs-Gesellschaft für See, Fluss und Land Transport*, [The General Insurance Company for Sea (and Lake\*), River

\* *Die See*, sea; *der See*, lake.

and Land Transportation,] of Dresden, Saxony, was authorized in Pennsylvania; Eugene Franssen, agent. The Mercantile Mutual, of New York, Louis C. Madeira now agent, wrote in Pennsylvania, in 1874, \$680,650 on marine and inland risks, received \$11,089.59 for premiums, with no losses paid during the year.

The financial panic which began in September, 1873, affected but little, and indirectly, the insurance interests. It did not, like earlier convulsions of the kind, reach to the foundations of the security of capital. Philadelphia and New York were the chief localities of the excitement. The suspension of the banking-house of Jay Cooke & Co. was followed by the suspension of twenty-three private bankers in New York, and a few in Philadelphia. Prices at the stock exchanges receded from 5 to 30 per cent., or more in special cases, but the depression as to any permanent effect was confined, and that in limited degree, to speculative shares and bonds. The following is a comparison in a few test prices between January, 1873, and December, 1874:—

	1873.	1874.
United States 5-20 coupons, 1867, . . . . .	114 $\frac{5}{8}$	120 $\frac{1}{4}$
New York Central and Hudson River, con., . . . . .	100 $\frac{3}{8}$	100 $\frac{3}{8}$
Pennsylvania Railroad 6's, 1m., . . . . .	98 $\frac{1}{2}$	103 $\frac{1}{2}$
Pennsylvania 6's, second series, . . . . .	105	108
Philadelphia 6's, no tax, . . . . .	100 $\frac{1}{8}$	101 $\frac{1}{2}$
Gold, . . . . .	111 $\frac{3}{4}$	111 $\frac{1}{2}$
Rate for Money (demand), Philadelphia, . . . . .	7@8%	6%

Section 12 of the act of April 4, 1873, to establish an insurance department, declared as follows:—

SEC. 12. Every insurance company, including individuals, partnerships, joint-stock associations and corporations, conducting any branch of insurance business in this State, must transmit to the insurance commissioner a statement of its condition and business for the year ending on the preceding thirty-first day of December, which statement shall be rendered on the first day of January following, or within sixty days thereafter, except that foreign companies shall transmit their statement of business, other than that done in the United States, prior to the following first day of July, which statements must be in form, and state the particulars required by the blanks prescribed by the commissioner. And the insurance commissioner may require, at any time, statements from any company doing business within this State, or from any of its officers or agents, on such points as he deems necessary and proper, to elicit a full exhibit of its business and standing; all of which statements herein required must be verified by the signatures and oaths of the president or vice-president, with those of the secretary or actuary. No company, having neglected to file a statement required of it, within the time and manner prescribed, shall do any new business after notification by the insurance commissioner, while such neglect continues. And any company or association neglecting to make and transmit any statement required, shall forfeit one hundred dollars for each day's neglect.

A coöperative, or something of the kind, called the Hock Age Mutual Beneficial Association of Philadelphia, was acting under an insurance charter of date of April 4, 1872, enacting that—

SEC. 5. Said corporation is authorized and empowered to make insurance predicated upon the lives of persons, upon the stock or mutual principle, and on such terms and conditions as shall be from time to time ordered and provided for by the by-laws of said corporation, and to make contracts upon any and all conditions appertaining to or connected with, or risk of whatever kind or nature; and policies may be issued, stipulated to be with or without participation in profits by the insured; but all dividends which may be declared upon such insurance, or declared to stockholders, which are not claimed and called for within six months after the same have been declared, shall be advertised for at least three weeks 'n some newspaper printed in Philadelphia, and if not demanded within one year after the publication of said notice, shall become forfeited to said company.



SEC. 2. Capital stock of said company shall consist of one thousand shares, which may be increased from time to time to an amount not exceeding two thousand five hundred shares of one hundred dollars each, and to bear interest at the rate of six per centum per annum, to be paid to the stockholders semi-annually *pro rata*, and without deduction; . . .

The Hock Age claimed to be a mutual life insurance company. Such organizations, as representing themselves to be more or less in the insurance category, Commissioner Forster deemed to be within the supervisory functions of the State insurance department. The Hock Age refused to report, and it was notified April 11, 1874, by the commissioner to cease doing new business, "and an account settled against the company for the penalties incurred."

The attorney-general proceeding against the Hock Age, the defendant association contending for immunity on several grounds, it was held by the court (Common Pleas, Dauphin county, Pearson, P. J.), that every insurance company is compelled to transmit to the commissioner a statement of its condition and business, as directed by the twelfth section of the act of April 4, 1873, except those specially exempted by Section 16 of same act, which must, however, at all times answer such interrogatories as the commissioner may require to ascertain their character and condition. No company incorporated within this commonwealth since the adoption, in 1857, of the fourth amendment to the constitution, could claim immunity from filing such certificate and making such statement, on the ground that said act violated the constitution of the United States by impairing the obligation of contracts, although there may have been no provision in the charter reserving to the legislature "the power to alter, revoke or annul it."

The defendant contends that as it was purely a mutual life insurance company in its mode of doing business, it was not bound to make any report. That we conceive is an error, as it is only mutual *fire* insurance companies which are excused. Even they must answer when called on by the commissioner, to enable him to ascertain their true character and condition. All of the provisions of the twelfth section have been most clearly violated by the defendant. Independently of the constitutional principle already cited, which gives full authority to the legislature to change, modify, or repeal the charter of this company, another equally potent exists, the police power of the State. This is incident to every government. Persons and property of all kinds are subject to general restraints and burdens, in order to secure the welfare and property of the State at large. The interests of the few must yield to the wants of the many. . . . We can only, therefore, say that the order of suspension was correct, and the same must remain, so far as regards any action of the court. But, for the violation of the law, it is ordered and adjudged that the defendants pay the costs of this proceeding. (10 Phila., 554.)

In 1874 all the marine and inland writing of the Anthracite was under Pennsylvania policies; in force at the end of the year \$139,374, which showed a large proportion of long voyages. The time writing of this company on body of the vessel, tackle, apparel, and other furniture, was in the same terms as those of the Insurance Company of North America, before cited, with respect to non-use of specified ports and the warranty "not to carry lime, nor more than her [the vessel's] registered tonnage in iron, lead, marble, stone, brick, guano or coal, on any one passage," and the regulation as to carrying grain in bulk. A new warranty was "not to carry petroleum or earth oil." Concessions were at times made to the coal interest by the Anthracite as to the regulation of amount of coal carried according to the "registered tonnage," and thereupon this commodity was erased from the restricting warranty. Anthracite coal is not, however, liable as bituminous coal to spontaneous



ignition. With liberty as to coal, a second-class schooner would be insured upon a fractional part of the valuation of the property one year free from claim for partial loss and general average losses and expenses, and against total loss only, for 6 per cent.—more or less according to special circumstances. *Marine* insurance policies against “fires only” were issued by marine writers; such policies were different in scope of their obligations and contingencies from the distinctive *fire* insurance policies.

The cash capital of the Anthracite had been increased in 1874 to \$74,760 from \$40,850 in the previous year, with net surplus at close of 1874 computed at \$21,467.12; and the cash capital of the Insurance Company of North America was now \$1,000,000, there having been \$500,000 added in 1874. This company had rapidly recovered from the drain on its resources by the great Boston fire. Its net surplus for date of December 31, 1874, was, by the State insurance department account, \$1,275,091.89, by the company's account \$1,180,663.01; over one million dollars of such surplus being a growth during eighteen months, the books showing the net surplus, June 30, 1873, at the lowest figure that had occurred in several years.

The Pennsylvania business of the five Philadelphia fire-marine insurance companies was as follows in 1874:—

## PENNSYLVANIA BUSINESS.

*Fire.*

	Risks written.	Premiums received.	Losses paid.
Anthracite, . . . . .	\$2,330,325	\$27,839 49	\$12,787 18
Delaware Mutual, . . . . .	17,244,357	143,595 79	43,651 92
Ins. Co. of North America, . . .	28,006,512	300,086 55	77,335 24
Ins. Co. of the State of Penn'a, . .	5,617,537	57,034 35	12,000 15
Union Mutual, . . . . .	3,186,958	50,669 40	14,799 50

*Marine and Inland.*

Anthracite, . . . . .	389,066	29,525 00	12,491 30
Delaware Mutual, . . . . .	37,207,187	431,385 04	335,009 83
Ins. Co. of North America, . . .	22,888,473	308,599 02	59,617 88*
Ins. Co. of the State of Penn'a, . .	4,385,174	53,020 09	93,973 12
Union Mutual, . . . . .	3,614,269	71,490 40	38,839 06

\* Incurred, \$149,653.12.

Disastrous fluctuations in the inland department of underwriting made experiments therein of very uncertain tenure. There were less than one million dollars written on marine and inland risks in Pennsylvania, in 1874, by non-State companies.

The house of representatives of the State legislature, in session in 1875, added a committee on insurance to its standing committees.

In April, 1875, the companies authorized to contract in Pennsylvania, and transacting in Philadelphia the various branches of the business, numbered as follows:—

	Local companies.	Other-State companies.	Foreign companies.	Agencies of State companies.
Fire, . . . . .	26	118	13	26
Fire and marine, . . . . .	5	1	1	—
Marine, . . . . .	—	1	1	—
Steam boiler, . . . . .	—	1	—	—
Plate glass, . . . . .	1	1	—	—
Life, . . . . .	5	36	—	—
Accident, . . . . .	—	3	—	—

The United States Review, previously The Northwestern Review, an insurance journal of Chicago, was this year removed to Philadelphia; Robert R. Dearden, editor and proprietor.

The *Rheinisch Westfalen* Lloyd, a German marine office, admitted in New York May 27, was licensed in Pennsylvania July 8. This was an office organized in 1867, writing about \$135,000,000 annually in Europe—Philadelphia agent, Eugene Fransen.

Fixed limits to the routes of ocean steamers, as avoidance of the risk of collision, was a subject in reference to which the attention of Congress had been called, and a committee composed of ship-owners, underwriters, etc., of Boston, Philadelphia, New York and Baltimore, making a report, rejected a track suggested by the German lines, deeming it to be of very small importance "whether we adopt the Maury, Wyman, Inman, Cunard or Blunt tracks, as compared with adopting *some* defined course. So long as we avoid too near approach to the Virgin Rocks, Cape Race and Nantucket Shoals, and keep our track to the west as narrow as practicable when on fishing grounds, it matters little which we adopt. . . . It is not enough, as suggested by the bill before Congress last year, to appoint a commissioner to confer with any who might be appointed by other powers; we want some one to go with authority to urge upon governments or upon steamship companies the necessity for action."

While the policy of the underwriter shall reach from port to port, the authoritative regulations bearing upon the jeopardies of navigation become new factors in estimating the probabilities in mixed contingencies.

At 2.30 A.M., May 10, 1875, twenty miles off Cape Hatteras, the night somewhat hazy, but wind moderate from the south-west, the steamship Tona-wanda, belonging to the Philadelphia and Southern Mail Steamship Company, struck the schooner H. P. Blaisdell head on just abaft the main rigging, and the schooner sank almost immediately. The steamer was heading north and the schooner south-east, close hauled. An act of Congress (Rev. St., Sec. 4234,) prescribed that every sail vessel, on the approach of a steamer during night time, should show a torch-light upon that point or quarter to which such steam vessel shall be approaching. The schooner showed no torch-light, and the lookout on both vessels was insufficient, and the proximate cause of the collision was a mistaken movement of the steamer after the schooner's green light had been sighted. A libel in admiralty was filed (District Court of the United States, E. D. Penn'a.), on behalf of the owners of the schooner against the steamship, and a cross-libel by the steamer. There was also a petition of intervention on behalf of the Insurance Company of North America, insurer of certain locomotive engines laden on board the schooner at the time of the collision.

The court held that the act of Congress did not apply to every case in which a steamer and a sailing vessel may pass near to each other, and condemned the steamer as alone responsible for the whole damage.

Cadwalader, J.: . . . . . In the case which actually occurred, the insufficiency of the lookout, if it was in any respect a cause of *danger*, was not a proximate cause of *disaster*. The sole cause to which the collision is properly attributable was the mistaken movement of the steamer. The question thus decided is between the two vessels. Whether any different or modified question might arise in a proceeding against the schooner at the suit of the owners of her cargo, cannot be determined upon the present state of the record.

Shippers and consignees, without fault, bear no part in loss by collision. Compensation is to be made by the sole wrong-doer and shared by mutual wrong-doers. The rule that collision as proximate cause of loss is not a peril of the sea in the policy sense, is subject to modification in practice. In case of mutual fault, or absence of fault on the part of the insured, the insurers are liable for damage to their own risks, subject to the question of the peril of the seas. If the insurers pay first, they are entitled to subrogation as to whatever rights of recovery may pertain to the insured.

With the vessel policy containing the warranty "not to carry grain in bulk," a new British Merchant Shipping Act introduced a possible conflict to be overcome by the underwriter. Late in 1875 the Insurance Company of North America cabled to London for an interpretation of Section 3 of the act. The reply was, that in the loading of British ships all the grain might be in bulk, if secured from shifting. For the doing of this effectually, the owners and masters were responsible.

August 12, 1875, the Hon. Horace Binney died, in the 95th year of his age. He was first elected a director of the Contributionship, April 15, 1817. His professional relations to marine insurance began with the practices of the Philadelphia marine companies starting in the first decade of the century; his expositions of life insurance are part of the record of the annuity and life insurance Corporation of the Protestant Episcopal Church in the Commonwealth of Pennsylvania. He brought to the investigation of the insurance subject a wide range of knowledge, the habit of research and study, and rare analytical abilities. Insurance, however, was but an incident in the far-reaching scope of his life's labors. A lawyer, he yet grasped the subject as an economic force working out its true results by its own laws. He knew it as a principle which involved blended phenomena of nature, art and society. He discerned it clearly when but a juggle of trade. He apprehended that the data were yet too meagre and too defective for the service needed and the service to be done. He indicated that the "average" of insurance was to have its true foundation in classified periodicities.

The General Insurance Company of Dresden withdrew in 1875 from Philadelphia. Amount written by the *Rheinisch Westfälen* Lloyd in Pennsylvania in the six months of the year \$56,750, premiums \$225.23; and the latter company soon discontinued its Philadelphia agency. Amount written by the Mercantile Mutual, of New York, in Pennsylvania in 1875, \$2,464,449. Whatever might have been the volume of Philadelphia shipping risks written by New York companies, it was unknown, and essentially and commercially a marine or transportation risk was not a local risk in the sense of a fire hazard or other hazard.



February 11, 1876, the Millville Mutual Marine and Fire, of New Jersey, writing annually about two and a half millions on marine hazards, was authorized in Pennsylvania; Hollinshead & Buckman, Philadelphia agents.

The general incorporation act of April 29, 1874,\* was followed by a supplement approved May 1, 1876, entitled a Supplement to an Act entitled An Act to establish an Insurance Department, approved the fourth day of April, one thousand eight hundred and seventy-three, providing for the Incorporation and Regulation of Insurance Companies, and relating to Insurance Agents and Brokers and to Foreign Insurance Companies. Section 57—the last section—of this supplement repealed “so much of any act of assembly as provides for the incorporation of insurance companies whose incorporation is provided for by this act, or for the alteration and amendment of the charters of the same.”

SEC. 34. Companies incorporated under this act must be organized upon the joint-stock or the mutual plan, and the power to insure upon both plans shall not exist in the same corporation, except temporarily, as provided in the preceding section of this act.

SECTION I. Be it enacted, etc., That any ten or more persons, citizens of this commonwealth, may associate in accordance with the provisions of this act and form an incorporated company for any of the following purposes, to wit:—

*First.*—To make insurance, either upon the stock or mutual principle, against fire on all kinds of buildings, merchandise and other property, and to effect marine and inland insurance on vessels, cargoes and freights, and on merchandise and other property in course of transportation.

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\* The general incorporation act of April 29, 1874, was entitled An Act to provide for the Incorporation and Regulation of Certain Corporations. Among the twenty kinds of companies of second class named were the following:—

- I. The insurance of the lives of domestic animals.
- II. The insurance of human beings against death, sickness or personal injury.
- III. The prevention and punishment of theft or wilful injuries to property, and insurance against such risks.

XIX. The insurance of owners of real estate, mortgages, and others interested in real estate, from loss by reason of defective titles, liens and incumbrances.

*Certificate for Second Class.*

SEC. 3. . . . . The certificate for incorporation embraced within the second class named in the foregoing [II] section, shall set forth all that is hereinbefore required to be set forth, and except building and loan associations, shall also state that ten per centum of the capital stock thereof has been paid in cash to the treasurer of the intended corporation, and the name and residence of such treasurer shall be therein given. . . . .

Section 14 makes stockholders individually liable.

*Insurance of Domestic Animals.*

SEC. 27. Companies incorporated under the provisions of this act for the insurance of the lives of domestic animals, or any of them, shall have the power to make insurance of every kind pertaining to or connected with life risks of domestic animals of any and every kind, and against the loss by death of all kinds of cattle, live stock, valuable beasts and domestic animals of every kind, whether such death be the result of accident, natural causes or diseases of any description whatever, and to make, execute and perfect such and so many contracts, agreements, policies and other instruments as may be required therefor.

*Life and Accident and Health Insurance Companies.*

SEC. 28. Companies incorporated under the provisions of this act for the insurance of human beings against sickness, death or personal injury, shall have the power and right to make insurances of every kind pertaining to or connected with death, accidents of every nature and kind to human beings, and to make insurances of every kind against the death, sickness or the health of human beings, by disease of every kind, and whether within this commonwealth or beyond it, and such corporations shall have the power and right to make, execute and perfect such and so many contracts, agreements policies and other instruments as may be required therefor.

*Insurance of Titles.*

SEC. 29. Companies incorporated under the provisions of this act for the insurance of owners of real estate, mortgages, and others interested in real estate, from loss by reason of defective titles, liens and incumbrances, shall have the power and right to make insurances of every kind pertaining to or connected with titles to real estate, and shall have the power and right to make, execute and perfect such and so many contracts, agreements, policies and other instruments as may be required therefor.

*Second.*—To make insurance, either upon the stock or mutual principle, upon the lives of individuals, and every insurance appertaining thereto or connected therewith, and to grant and purchase annuities.

*Third.*—To make insurance, either upon the stock or mutual principle, upon the health of individuals and against personal injury, disablement or death resulting from travelling, or general accidents by land or water, or accidents resulting from the pursuit of any trade or business.

*Fourth.*—To make insurance, either upon the stock or mutual principle, upon the lives of horses, cattle and other live stock, and against loss, damage or liability arising from any unknown or contingent event whatever, except the perils and risks enumerated in the preceding paragraphs of this section.

SEC. 11. Joint-stock companies organized under this act for any of the purposes of insurance mentioned in the first division of the first section, shall have a capital stock of not less than one hundred thousand dollars. Mutual companies, for any of the purposes aforesaid, may accept risks and issue policies whenever applications be made for insurance to the amount of two hundred thousand dollars, and authority to commence business has been granted in the manner hereinbefore provided.

SEC. 17. Policies of insurance made or entered into by the company, may be made either with or without the seal thereof. . . . .

SEC. 18. It shall be unlawful for any fire or fire and marine insurance company, organized under this act, to invest its capital, or any part thereof, otherwise than in bonds and first mortgages on improved and unincumbered real estate, within the State of Pennsylvania, worth fifty per centum more than the sum loaned thereon, exclusive of buildings, unless such buildings are insured and the policy transferred to said company, or in ground rents, or bonds of the United States or of the State of Pennsylvania, or the bonds of any other State that may be par at the time of the purchase thereof, or in the bonds of any county, city or municipality in the State authorized to be issued by law, and upon which no default in interest has been made, or in the first mortgage bonds of solvent railroad corporations upon which no default in interest has been made, and to lend the same, or any part thereof, on the security of such bonds or evidence of indebtedness, and to change and reinvest the same as occasion may from time to time require; but any money over and above the capital stock of any such company may be invested in the securities above enumerated, or in the stock or other evidence of indebtedness of any solvent dividend paying corporations created under the laws of this State or the United States, or loaned upon the pledge of the same, except their own stock: *Provided*, That the current market value of such securities shall be at least twenty per centum more than the sum loaned thereon.

SEC. 20. Not more than one-half its capital stock shall be loaned by any company, organized under this act, on mortgage of real estate, and not more than one-tenth of its capital shall be invested in a single mortgage, nor shall any portion of the funds of the company be loaned on personal security. If any investment or loan is made in a manner not authorized by this act, the directors making or authorizing the same shall be personally liable for any loss occasioned thereby.

SEC. 36. That all insurance companies heretofore or hereafter incorporated, except those especially exempt by the terms thereof, shall be subject to the provisions and requirements of the act approved the fourth day of April, Anno Domini one thousand eight hundred and seventy-three, entitled "An Act to establish an insurance department," and the several supplements thereto.

Increase of capital stock being proposed by the Insurance Company of North America and the Union Mutual, meetings of stockholders were called, which meetings decided expressly to accept this section of the act of May 1, 1876:—

SEC. 27. Any existing fire or fire and marine insurance company, and any stock company formed under this act, may at any time increase the amount of its capital stock, if authorized so to do by the stockholders holding the larger amount in value of the stock, at a meeting specially called for that purpose, of which at least sixty days' previous public notice shall have been given. At such meeting of the stockholders, and at all other meetings thereof, each stockholder shall be entitled to cast, either in person or by proxy, subject to such regulations as to voting by proxy as the by-laws of the company may prescribe, one vote for each share of stock that shall have stood in his or her name on the books of the company for at least three months previous thereto. Increase of capital stock as aforesaid may be made by increasing the number of the shares of stock, or by increasing the par value of the same, and such increased shares or increased par value



shall be allotted *pro rata* to the stockholders of said company according to their interest, and may be paid in whole or in part out of the accumulated reserve of the company, in case the condition of the company warrants such allotments, or the same may be disposed of as is provided in this act for the organization of stock companies. No portion of the funds of a company shall be regarded as accumulated reserve subject to allotment under this section, except such amounts as may remain after charging the entire amount of premium receipts on undetermined policies in addition to capital stock and all other liabilities. Before any such company as aforesaid shall be authorized to increase its capital stock as herein provided, it shall file with the insurance commissioner a certificate setting forth the amount and manner of such desired increase, and the proceedings of the stockholders authorizing the same, and thereafter such company shall be entitled to have the increased amount of capital fixed by said certificate; and the examination of securities composing the capital stock thus increased shall be made in the same manner as is provided in this act for capital stock originally paid in. Whenever any existing fire or fire and marine insurance company shall, by a resolution of its board of directors, accept of the provisions of this section of this act as part of the charter of the said company, and a duly certified copy of such resolution shall have been filed in the office of the insurance commissioner, the charter of said company shall be deemed and taken to have been amended by the addition thereto of this section, which shall have the same force and effect as if a part of the company's original charter, or constituting a supplement thereto.

In conformity with this, the Union Mutual resumed the status of an unmixed stock company, after thirty-one years' experience as a mixed mutual organization, and the word "Mutual" was dropped from its title.

Other-State life insurance companies testing the legality of the 3 per cent. tax exacted from non-State companies on their Pennsylvania premiums, contended that the insurance act of 1873, under which the tax was claimed, was repealed by the act of 1874,\* for the taxation of corporations, and further, that the act under which it was claimed was in conflict with the first section of the ninth article of the State constitution.† The case of the Commonwealth

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\* An Act for the Taxation of Corporations.

SECTION 1. No corporation to go into operation until registered.

SEC. 2. Annual reports to be made to auditor-general. When no dividend is declared, stock to be appraised. Appeal authorized.

SEC. 3. Penalty for neglect to make annual reports. When charter is to be forfeited.

SEC. 4. That every railroad company, canal company, steamboat company, slackwater navigation company, street passenger railway company, transportation company, and every other company now or hereafter incorporated, shall be [taxed per dollar of capital at the rate of nine-tenths of one mill for each one per cent. of dividend declared. If no dividend be declared, then six mills on a true valuation of the capital stock.]

SEC. 5. That every company whatever, now or hereafter to be incorporated under any law of this commonwealth, or now or hereafter incorporated by any other State, and doing business in this commonwealth, except those upon which a tax is imposed by the fourth section of this act, and excepting also banks and savings institutions, building associations and foreign insurance companies, licensed in pursuance of the general acts in relation thereto, shall be subject to and pay a tax into the treasury of the commonwealth, annually, at the rate of one-half mill upon its capital stock for each one per cent. of dividend made or declared by such company, and in case of no dividend being made or declared by such company upon either its common or preferred stocks, then three mills upon a true valuation of the capital stock of the same, upon which no dividend has been made or declared, made in accordance with the provisions of the third section of this act.

SEC. 9. That the auditor-general and State treasurer, or any agent appointed by them or either of them, are hereby authorized to examine the books and papers of any corporation, institution or company, to verify the accuracy of any return made under the provisions of this or any other act of assembly.

SEC. 11. [All laws are repealed inconsistent with this act; also repealed sections 1, 2, 3, 4, 7, 8, 9, of an act respecting brokers and bankers, May 1, 1868; also fourth section of act "relating to the Revenues of the Commonwealth," March 21, 1873,—this repeal "not to have the effect of reimposing any tax heretofore repealed by any of said sections." No penalty to be put on accrued taxes due under last-named law, but if paid within thirty days after approval of this act, five per cent. to be deducted. The repeal of fourth section of act of March 21, 1873, to take effect January 1, 1874.] Approved April 24, 1874.

An act to prohibit foreign corporations from doing business in Pennsylvania without having known places of business and authorized agents, was approved April 22, 1874.

† ART. IX, SEC. 1. All taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws. . . .



*vs.* the Germania Life Insurance Company of New York, before the Court of Common Pleas of Dauphin county, terminated in favor of the State.

Pearson, P. J.: . . . . . The first question presented in its natural order in the present case goes to the jurisdiction of the officers to settle this account [*i. e.* the three per cent. tax on \$106,781.50 of premiums]. Could it be done by the insurance commissioner and State treasurer under the act of 1873, or was that power abrogated and annulled by the act of April 24, 1874? Is that part of the act of 1873 repealed? It is very clear that by the act of 1873 the legislature intended to give jurisdiction and control of all things connected with insurance in this State to the insurance commissioner. . . . .

The agencies of foreign offices desiring to do business in the State, must receive their license from him [the commissioner]. He judges of the solvency of the parent institution, and can compel the production of its books, and, if dissatisfied, can revoke the power to carry on business here; and by the tenth section of that act the amount of premiums received is to be reported to him annually, and a tax paid for the use of this commonwealth of three per cent. on the premiums received, and the commissioner cannot grant a renewal of the certificate of such company or agency unless the tax is paid. Is this system, so carefully prepared, abolished by the act of 1874? There are no express words of repeal, so far as regards the insurance department; yet there is an apparent inconsistency between the two laws. The first section of the act of 1874 provides for all institutions or companies incorporated under any law of this commonwealth, or of any other State authorized to do business within this commonwealth, making report of its name, place of business, and the names of its officers to the auditor-general, under heavy penalties. . . . . The second section requires all of such [insurance] corporations to report to the auditor-general the amount of capital, business done, dividends declared, etc., with the sum due for taxes to the State. It is proper that this should be known at the department, even if the same thing is reported to the insurance commissioner, in regard to that class of corporations. The third section merely provides a remedy for enforcing the reports, under certain penalties. . . . . The fifth section more immediately relates to the matter in controversy. That section, by very general expressions, requires all companies incorporated by this State, or by other States and doing business in this, to pay a tax at the rate of one-half mill upon the capital stock on each one per cent. of dividend made or declared, and if a failure to declare any, on an appraised value. But, in enumerating the corporations which are to be so taxed, the law expressly exempts "foreign insurance companies licensed in pursuance of the general acts in relation thereto."

Was it the intention of the legislature to exempt those [foreign insurance] companies from all taxes whatever? Was it intended to repeal the act of 1873 imposing the three per cent. tax on all premiums received by such corporations? We cannot believe that the legislature so intended. If it appeared that the auditor-general was to settle the accounts of these foreign corporations doing business in Pennsylvania, we would say that the insurance commissioner could not settle them, as it cannot be supposed that two tribunals would be required to settle the same accounts, as it would naturally or possibly lead to a different result. But there is nothing in the act of 1874 requiring the account to be settled by the auditor-general, and even if the tax had to be reported to his office, it would not be conclusive, as it might be considered proper that the whole taxes due the State should appear in that office.

. . . . . Unlike the taxes imposed on our own citizens, it is more in the nature of a contract. The legislature could say to the foreign insurance company: You shall establish no agency in Pennsylvania; we will not permit you to underwrite any policy on the lives of our citizens within the State. Or they could declare: We will permit it on condition that you shall pay into the treasury a certain sum on each policy, or a percentage thereon, which may be called a tax, or by any other name, and on being accepted, the terms must be complied with. Again, the power of the legislature to classify must be conceded. Why not say, we will place the foreign insurance company in one class and the domestic insurance company in another?

. . . . . We do not consider that there is anything in the exception that this law taxes a contract made in the State of New York. It is conceded that the contract was made in Pennsylvania, and the corporation knew at the time of making it that a certain portion of the funds received must be paid over to the State of Pennsylvania under the name of taxes. We are of opinion that the tax was properly imposed, for the right sum, the settlement legally made, and the same must bear interest at twelve per cent. after two months from the date of settlement, and that the claim of five per cent. for collection can lawfully be charged, if the act of 1870 is constitutional. We shall accordingly enter judgment in favor of the commonwealth for \$3,713.86, and costs of suit. (11 Phila., 553.)

The "subject" of taxation was insurance premium. Was such subject, not subjects, one or many according as *companies* might be differently classed? An appeal being taken from the judgment of the Common Pleas to the Supreme Court, the latter affirmed, *per curiam*, the judgment.

3. We are of opinion that under the ninth article of the new constitution, the legislature has power to classify the *subjects* of taxation, and that foreign insurance *companies* may be placed in a class by themselves and distinct from other insurance companies, and may be taxed independently and differently. (4 Norris, 519.)

So the power of the legislature to classify the different subjects of taxation was a power to divide, differentially, the single subject.

Among the concourse gathered at Philadelphia during the commemoration of the centenary of American independence to visit the great international exposition, was Cornelius Walford, of London, the insurance cyclopædist. Mr. Walford had attended the seventh annual meeting of the State insurance officials, which opened its proceedings at Harrisburg, Pa., September 19, 1876, and, upon invitation, gave his views on several topics relative to which his judgment was asked. The following resolution was passed on the third day of the session:—

*Resolved*, That the thanks of the convention are hereby presented to the Hon. Cornelius Walford for his attendance upon our proceedings and for the valuable advice and instruction he has given us, and we take occasion to express our gratitude to him for his great services in the cause of insurance, and to invoke for him personally all the blessings that attend a life spent in the service of his fellow-men.

A banquet tendered to Mr. Walford by underwriters of Philadelphia and the insurance press of the city, took place on the 29th of the month. Alfred G. Baker, president of the Franklin, presided on the occasion. On the formal introduction of the guest, the speaker appointed to such office recited different originations of Mr. Walford in the practice of insurance, and the opening and conclusion of his remarks were as follows:—

We meet, not as flattering or complimenting any one, but as respecting ourselves. We meet, not to award honor to any man, but simply to do that which a just appreciation of our own position compels us to do. We meet in the birthplace of American insurance to greet, as we should, with courteous recognition, the greatest name in the insurance library. Philadelphia rises from the unstained memory of her early underwriting history to take the hand of the most illustrious historian of insurance.

Cornelius Walford is not merely writing the cyclopædia of insurance and preparing the dictionary of its law—he has made, as well as written, insurance history. Wherever a policy is issued his influence extends, and he enlightens the growing enlightenment which is ultimately to remove the obstacles to secure underwriting. The interpreter of the past, he is no less the prophet of the future—seeing with a vision clear and strong, Probability, Average, Indemnity, as three talismanic words opening the gates through which the nations go upward to higher civilization.

About this time Mr. Walford furnished the tables, formulæ and business regulations for a National Burglar and Theft Insurance Company projected in New York. He had devised the method in 1864 for parties in England desiring to try the experiment, but declared against the practice on the score of the extreme moral hazard.

Received by the Anthracite in 1876 for increased stock capital \$100, by the Insurance Company of North America \$1,000,000, by the Union \$50,000.



The Union wrote in the year \$6,998,177 on fire risks and \$6,383,696 on marine risks—nearly all of the latter Pennsylvania risks. Net premiums received by the Union on fire risks \$68,781.78, net amount paid for fire losses \$41,941.11; net premiums on marine risks \$66,204.14, net amount paid for marine losses \$44,552.15; total income \$151,500.14, total disbursements \$138,622.17, including \$10,981.10 paid for dividends; and \$496.74 of scrip were redeemed in cash. The Insurance Company of the State of Pennsylvania wrote \$16,389,703 on fire risks and \$6,955,640 on marine risks (\$5,029,436 Pennsylvania risks). Total income was \$257,957.65; total disbursements \$264,930.59, including \$23,832 dividends paid on stock capital. The writing of the Insurance Company of North America was upon marine hazards to the amount of \$187,694,676, fire hazards \$121,778,491; income \$3,450,918.94, disbursements \$2,945,592.59, with \$200,000 paid for dividends on capital. Similarly to the employment of a salvage corps on land, a wrecking steamer had been constructed for this company, to be employed in the assistance of vessels in distress. The earnings of the marine branch of the business were \$337,261.97, of the fire branch \$491,798.67; total earnings of the company \$976,540.77. Income excess of \$505,326.35, as presented by the State insurance department, was a mere current cash account. Risks written by the Delaware Mutual amounted to \$64,591,626—marine \$43,664,354, fire \$20,927,272. The disbursements aggregated \$713,332.62, of which \$289,178.80 were for redemption of scrip and cash dividends; total income \$738,056.70. The non-premium income of the Delaware Mutual was \$105,147.31, cash dividends paid \$105,098.80.

Before the expiration of its annual license the *Rheinisch Westfalen Lloyd* withdrew from the State.

March 20, 1877, an enactment was approved, entitled An Act to equalize the Taxation of Corporations and Companies, which repealed sections second, third, fourth, fifth and sixth of the corporation tax law of April 24, 1874. This act of 1877 taxed the premium receipts of domestic insurance corporations as follows:—

SEC. 6. That hereafter it shall be the duty of the president, secretary, or other proper officer of each and every insurance company or association incorporated by or under any law of the commonwealth, except companies doing business upon the purely mutual plan, without any capital stock or accumulated reserve, and purely mutual beneficial associations whose fund for the benefit of members, their families, or heirs, is made up entirely of the weekly or monthly contributions of their members, and the accumulated interest thereon, to make report in writing to the auditor-general semi-annually upon the first days of July and January in each year, setting forth the entire amount of premiums received by such company or association during the preceding six months, whether the said premiums were received in money or in the form of notes, credits, or any other substitute for money, and every such company or association shall pay into the State treasury, at the dates aforesaid, a tax of eight-tenths of one per centum upon the gross amount of said premium: *Provided*, That said report shall be made under oath or affirmation, and that it shall be the duty of the accounting officers of the commonwealth to add ten per centum to the account of any company or association whose officers shall neglect or refuse for a period of thirty days to make the said report, or to pay into the State treasury the tax imposed by this section.

This tax was in addition to the one on capital; it was, further, a tax on the premiums of Pennsylvania companies received in other States, which already



paid 3 per cent. tax on such premiums through the operation of the retaliatory tax statutes of other States.

Marine and inland risks written in Pennsylvania in 1877, compared as follows with like writing in 1876. In 1877 there were fourteen Pennsylvania companies and nine other-State companies so writing; in 1876 fifteen Pennsylvania companies and thirteen other-State companies.

	1876.			1877.		
	Risks written.	Prem's received.	Losses paid.	Risks written.	Prem's received.	Losses paid.
Pennsylvania companies, . . . . .	\$73,323,191	\$874,506	\$494,396	\$56,819,099	\$620,821	\$722,734
Other-State companies, . . . . .	5,163,510	72,205	46,976	9,325,427	116,808	101,474
	\$78,486,701	\$946,711	\$541,372	\$66,144,526	\$737,629	\$824,208

At the close of the official year of the presidency of the Insurance Company of North America, Arthur G. Coffin resigned the office which he had filled for more than thirty-two years, and back of the presidential years were his services for thirteen years as secretary. In the last of his presidential years the company assumed risks to the amount of \$323,088,036, and closed the year with \$6,408,696.58 of assets, having therein \$2,362,532.34 of net surplus. In the looking back over the nearly half a century of Mr. Coffin's official connection with the company, there might have been, here and there, one of equal age with himself who could recall in memory the time when the assets were not three hundred and fifty thousand dollars, and the amount written in a year less than twelve million dollars. At a meeting of the stockholders held January 18, 1878, due recognition was made of Mr. Coffin's "long and faithful service."

Vice-president Charles Platt was elected president; Mr. Platt was first elected secretary January 3, 1860.

Mr. Coffin continued in the directory. From this board death removed, February 11, one who was a model director as model man. William Welsh, merchant and philanthropist, died on that day. He was first elected director January 11, 1842, and he discharged the duties of the position for thirty-six years with rare assiduity. The board of directors made this minute to his memory:—

It may be truly said of him, that throughout his long service here he faithfully obeyed his oft-repeated admonition—reiterated on the last occasion of his presence—that those who accept the responsibilities of the office should acquire a knowledge of its duties, and fulfil them with fidelity. Every officer and director of this company knows the fact that William Welsh was not only constant in his attendance at the meetings of the board and its committees, but that he came prepared not only to consider and accept the routine of proceedings which might be reported, but to grasp and solve the difficulties of any question, giving to it the practical consideration and clear counsel of an able mind and well trained judgment.

The Insurance Company of North America appealing from the State insurance department, the question as to the taxation under the act of 1877 was heard by the Court of Common Pleas of Dauphin county.

Pearson, P. J.: The points reserved in effect present two questions: First, Does the sixth section of the act of March 20, 1877, impose a tax on the gross receipts of the defendant corporation for business done without as well as that transacted within the State of Pennsylvania, on which it received money, notes, credits, or any other substitute for money? And, second, Can the tax on business done out of the State be lawfully imposed by our legislature?

. . . . . We cannot doubt but that it was the intention of the legislature in enacting the statute to tax all the receipts of this company, whether arising from contracts made and business transacted without as well as within the State. The design was to impose it upon all of the receipts from its business wherever done.

Second. Is there anything in the constitution of this State or of the United States which prevents the imposition of the tax on business done or money due in another State? It certainly is not a tax on commerce between the States. It is said in the argument that insurance is as necessary to commerce as bills of lading, decided to be protected in 24 Howard, 168. In that case it was not merely the bill of lading that was exempted, but the gold-dust or bullion which it represented. An insurance, although common, is not necessarily commerce. Many strong merchants or wealthy firms never insure. But this very point is decided in *Paul vs. Virginia* (8 Wallace, 168). "A policy of insurance is not a transaction of commerce, it is a mere contract."

This tax is much less objectionable than that imposed on the gross receipts of railroads, as in many cases they were not incorporated by the laws of Pennsylvania, but were the creation of other States, and barely permitted to pass through this; yet a tax of \$76,778 was imposed on the New York and Erie Railway, which only ran about forty-five miles through Pennsylvania, and that was sustained.

. . . . . It may be conceded that money at interest, whether secured by note or mortgage, can not be taxed as such. The State must have jurisdiction of the person or property, and money at interest is not considered property, except in the State where the owner resides. See the reasonings of the court in the *Foreign Bond* case (15 Wallace, 300), and the principles there laid down. The same doctrine has been reiterated in many other cases and in different States. A mortgage must be taxed where the owner lives, and not where the mortgaged land lies. (19 Md. Rep., 13.) The State of Pennsylvania has for nearly forty years taxed her citizens with money at interest due in other States, and the right has never been questioned. In the language of Chief Justice Marshall, it has jurisdiction of the person. In the present case the State has full jurisdiction over this corporation, and can tax the money due it wheresoever situated.

We are of opinion that the law is in favor of the State on the points reserved, and therefore direct judgment to be entered on the verdict in favor of the commonwealth.

In Error. Agnew, C. J.: . . . . . It is not a tax on property in another State, but on money which is in the treasury of the corporation within this State.

It is said it transgresses the power of Congress to "regulate commerce with foreign nations and among the several States, and with the Indian tribes." It is not a tax on anything coming in or going out of the State, or upon the means of transportation. It is not laid on any instrument of commerce, either representing or affecting commerce, as a bill of lading accompanying goods transported. It does not affect travellers coming in or going out, or property situated out of the State—in short it touches no interest outside of the State, except in that remote and incidental manner in which State taxation may affect all property entering into the commerce of the State, and which has been frequently held by the Supreme Court of the United States to be no regulation of commerce conflicting with the Federal power. It is evident at the outset that the case is not governed by the principle settled in such cases as *Brown vs. Maryland*, 12 Wheaton, 418; *Hayes vs. Steamship Co.*, 17 Howard, 596; *Steamship Co. vs. Port Wardens*, 6 Wallace, 31; *Passenger cases*, 7 Howard, 283; *Avondale vs. Nevada*, 6 Wall., 36; *Aubrey vs. California*, 24 Howard, 169; *Tonnage tax cases*, 15 Wall., 232; *State tax on foreign bonds*, 15 Wall., 300. All these cases proceed on the ground that the constitutionality of a State tax law must be determined, not upon the form or agency collecting the tax, but by the *subject* on which the burden is laid. (*Tonnage tax case*, 15 Wall., 272; ——— *vs. Illinois*, 4 Otto, 135.) As said in *Doyle vs. Continental Insurance Company* (4 Otto, 341): "In all cases when the legislation of a State has been declared void, such legislation has been based upon an act or a fact which was itself illegal."

But the subject of this tax, as we have said, has no relation to any article of inter-State commerce, even in a remote and indirect way. The subject, money derived from the receipts of premiums, is not susceptible of prohibition by any Federal law. In discussing this point, we may first consider the person or party taxed—a corporation created by State law, located in the State, and amenable only to its laws. It is not a citizen in the sense of the rights of persons secured by the constitution, except for the purpose of Federal



jurisdiction. (*Insurance Co. vs. French*, 18 Howard, 404; *Paul vs. Virginia*, 8 Wall., 178; *Ducat vs. Chicago*, 10 Wall., 415; *Liverpool Insurance Co. vs. Massachusetts*, *ibid.*, 573; *Railroad Co. vs. Harris*, 12 Wall., 81.) Nor can it exercise its powers outside of the State, except by the consent of the State into which it comes. (*Bank of Augusta vs. Earle*, 13 Peters, 519; *Paul vs. Virginia*, 8 Wall., 180, 181; *Ducat vs. Chicago*, 10 Wall., 410; *Insurance Co. vs. Morse*, 20 Wall., 456; *Doyle vs. Insurance Co.*, 4 Otto, 540.) But it derives its faculties from our laws; and its powers to go out of this State in pursuit of business permitted elsewhere, it obtains from this State alone.

This faculty of action, or power to go elsewhere, is a home franchise, and is not conferred by the law of another State, by whose permission it *exercises* the franchise within it. It is this franchise, the power to make money by its business at home and abroad, which this State assumes to control as a right, and the burthen imposed is the price it must pay for the faculties and powers conferred. By the exercise of this franchise it collects the fruits of its business, no matter where it is performed. The money which finds its way into the treasury is the product of those powers conferred by this State. In view of the corporate being thus conferred, the powers thus derived, and the products of business thus gathered, the State necessarily possesses the power to tax the products of its corporate business; for none of them possesses, in the slightest degree, an outside character or interest. This brings us to consider more specially the subject of the tax. As already stated, a tax on gross premiums of insurance is a tax upon the receipt of money, or its representative in notes and bills, and not on property or any article of commerce; it touches only a fund in the treasury of the company. As was said in the *Gross Receipts* cases (15 Wall., 294): "This tax is laid on the gross receipts of the company; laid upon a fund which had become the property of the company, mingled with its other property, and possibly expended in improvements, or put out at interest." (See also *Erie R. R. Co. vs. Pennsylvania*, 21 Wall., 497.) This tax is not measured by the subjects of insurance, for be the rates high or low they do not govern, but the money only after it has passed into the hands of the company. The difference between this tax and that in the *Gross Receipts* cases is marked. There the receipts were the result of transportation, more nearly approximating a regulation of commerce, and the dissent of three of the judges was put upon this ground. But here the tax is on the mere results of business, involving only local transactions, and partaking of no relation to inter-State commerce.

A contract of insurance is merely a guarantee against loss of property by fire or marine disaster; when on chattels on land or sea, it is a protection merely given to the property, for which a price is paid. This price, or premium, is but a consideration, and the right to receive it rests on the faculty imparted by the State in its charter. Why shall not the State law tax its product of this faculty? It is no burden on those living outside more than those within the State.

The tax on a franchise is admitted to be lawful. (*Tonnage Tax case*, 15 Wall., 277; *Tax on Gross Receipts*, *ibid.*, 294; *Savings Society vs. Coite*, 6 Wall., 606; *Osborn vs. Bank United States*, 9 Wheaton, 859; *Brown vs. Maryland*, 12 Wheaton, 444; *Erie R. R. vs. Pennsylvania*, 21 Wall., 497.) So the greater the scope of the business of an insurance company, the less must be the charge, and hence the spread of its risks into other States cheapens the price.

That a policy is a mere contract of indemnity against loss of property, and not an instrument of commerce, is held in several cases. (*Paul vs. Virginia*, 8 Wall., 183; *Ducat vs. Chicago*, 10 Wall., 410; *Liverpool Insurance Co. vs. Massachusetts*, *ibid.*, 573.) In the first case Justice Field uses this language: "Issuing a policy of insurance is not a transaction of commerce; the policies are simple contracts of indemnity against loss by fire, entered into between the corporations and the assured for a consideration paid by the latter. These contracts are not articles of commerce in any proper meaning of the word. They are not subjects of trade and barter offered in the market, as something having an existence and value independent of the parties to them. They are not commodities to be shipped or forwarded from one State to another, and then put up for sale. They are like other personal contracts between parties which are completed by their signature and the transfer of the consideration. Such contracts are not inter-State transactions, though the parties may be domiciled in different States. The policies do not take effect, are not executed contracts until delivered by the agents in Virginia. They are then local transactions and governed by the local law."

Judgment affirmed.

So, by the highest legal authority of the State, as well as that of the nation, insurance was in *law* not commerce, whatever it might be in *fact*. The interpretation of "commerce" in the constitutional clause limited the sense of



the word to the root *merx* as exclusively implying goods, wares and commodities, or merchandise. That the mercantile sense was intended by the framers of the constitution, is as clear as the fact that an underwriter, as such, is not a merchant in the ideas of the people; and the great organic instrument no more legislated about insurance than it regulated beet-root sugar manufacture. Insurance is a contract, and a contract is not a commodity; but *commerce* in merchandise, commerce itself, is no more merchandise than is the commerce between or among individuals styled personal intercourse. Commerce is not mere barter, it is exchange of values; the giving of money for sugar is as much commerce as the giving of coal for sugar. A bill of lading is of the character of a guaranty, it is proximately an instrument (not element) of transportation, it is remotely an instrument of commerce or traffic. Commerce is an action, not a thing. It is the dealing, not the things dealt in. The basis of the dealing is *value*, and not all value. Insurance as indemnity secures, not the substantive thing, but the exchange value thereof, just the value to which commerce relates. Insurance is a value bought and sold every day, and people dispute in its markets as in any other markets, whether the prices are high or low, irrespective of value for use.

These remarks are not for any purpose of discussion, but merely to show a stage reached in a fashion of opinion or fashion of law, and they leave open the question whether the understanding of the word "commerce" as being equivalent to the word "business" is a strict or a latitudinarian construction.

A tax on the whole other-State premiums was defined to be a tax "on money which is in the treasury of the corporation within this State" and a tax on "the mere results of business." The normal money "in the treasury of the corporation" was something more or less than the amount of the *unearned* premiums; "the mere results of business," as a net consequence, were possibly 5 per cent. of the premium taxed.

President Platt, in a communication to a daily journal on the subject of the series of Pennsylvania insurance taxation, said, respecting the Insurance Company of North America: "Were this company located in New York or Massachusetts, it would be at least \$50,000 per annum to its advantage."

June 15, the Anthracite went into liquidation, the board of directors voting a return of \$43,550 to the stockholders, allowing the risks mainly to run off without reinsurance. Report of total premium receipts from organization in 1854 to close of 1877, was \$1,620,959.07, total losses paid \$1,133,875.76. Total capital paid in \$71,550, and \$10,000 of surplus had been capitalized by dividends payable in stock. Total cash dividends paid \$69,150.13. The assets, December 31, 1877, as valued, were \$31,763.82 in excess of the capital of \$81,550. Such excess was about equal to its non-capital liabilities, the latter including \$20,000 due for borrowed money. During 1878 the receipts were \$6,494.55, and the disbursements \$27,707.39; net amount paid for losses being \$20,664.59. Besides this disbursement there was a return of \$415 of perpetual deposits, the few outstanding perpetual policies being cancelled. At the close of 1878 there remained \$11,564.17 of assets, with non-capital liabilities of \$4,942

for resisted losses. The unsettled capital account was \$39,185, which included \$1,185 yet unpaid of the \$43,550 first allotted to stockholders.

There was a general concurrence among marine underwriters as to the twelve York-Antwerp Rules of General Average, formulated by a committee appointed at Antwerp in 1877; that is, so far as to agree that general average should be settled according to such rules when an intention to have such adjustment should be expressed in the bills of lading or charter parties. Many shippers, however, objected to the exclusion of voluntary stranding, if needful to escape greater peril, from general average contribution.

"The depreciation of the value of real estate" obliging many corporations "to purchase real estate under executions, or take conveyances thereof in order to save their claims thereon," while by their charters they were "authorized to hold the same only for a limited time," an act was approved May 22, 1878, extending the time for holding such acquisitions "during a further period of five years" after the expiration of the charter time, in order to avoid forced sales during the "continued depression in prices."

(Thirty-eight Pennsylvania fire or fire and marine insurance companies added \$728,783 to their real estate properties in fee, in 1878, through foreclosure of mortgages.)

The session of the legislature of which the last named act was an outcome, did not aid and abet detriment and destruction to corporations. An amendment, approved June 21, to the criminal code of March 31, 1860, defined as guilty of misdemeanor any person who, as "an officer, director, superintendent, manager, receiver, employé, agent, broker, or member," fraudulently converted to his own use, or the use of any other person, the money or other property belonging to or in possession of the corporation. For such misdemeanor, or the one to "destroy, alter, mutilate or falsify any of the books, papers, writings or securities" belonging to the body corporate, "with intent to defraud," or the misdemeanor of such officer, director, superintendent, etc., who shall "make, circulate or publish, or concur in making, circulating and publishing, any written or printed statement or account which he shall know to be false in any particular," to induce any person to advance any money or property to the body corporate,—the term of imprisonment was extended to six years, with a fine not exceeding one thousand dollars. The original act of 1860 prescribed an "imprisonment not exceeding two years," or a fine "not exceeding one thousand dollars, or both or either, at the discretion of the court."

A few days previous to the approval of the act relative to such misdemeanors, the following relative to fraudulent agents received the executive sanction:—

An Act extending protection to foreign and domestic insurance companies from fraudulent agents.

SECTION 1. Be it enacted, etc., That if any director, officer, agent, or other person connected with, or doing business for or with, any fire, marine, or life insurance company, trust or annuity company, or any health or casualty insurance company, or any company for the insurance of horses, mules, cattle, and live stock, incorporated by the State of Pennsylvania, or any other State of the United States, or by any foreign government, or organized under the laws of any State or foreign government, which has complied with



the insurance laws of this commonwealth, shall fraudulently embezzle, or appropriate to his own use, or the use of any other person or persons, any money or other property belonging to such company or companies, or left with or held by such company or companies, in trust as a special deposit, or otherwise, he or they, on conviction thereof, shall be fined in a sum not exceeding nor less than the amount so appropriated or embezzled, and sentenced to undergo an imprisonment in the penitentiary for a term not exceeding five years, or both such fine and imprisonment at the discretion of the court; and in the indictment and trial of any case under this act, it shall not be necessary, in order to establish a *prima facie* case for the commonwealth, to set forth or prove the incorporation or organization of any such company or companies, except by the verbal testimony of any competent witness. Approved June 17, 1878.

The Insurance Company of North America took an appeal to the Supreme Court of the United States from the judgment of the State Supreme Court in the matter of the premium tax rate of eight mills, and a bill passed the State senate in 1879 to confine the tax to premiums on policies written within the State; that is, for example, not to put a Pennsylvania tax on New York contracts. Then a compromise was arranged, but not consummated, by which the companies were to pay in full the \$42,000 of taxes in litigation and the existing tax rate until July 1, 1879, but An Act to provide Revenue by Taxation was approved June 7, modifying or substantially reënacting prior State laws—Section 8 of the new law repeating *verbatim* Section 6 of the act of March 20, 1877.

March 15, 1879, Judge Ludlow, Common Pleas, No. 3, applied the act of April 4, 1873, to a motion to quash a writ of foreign attachment for want of jurisdiction. (*Darlington et al. vs. Rogers et al.*, defendants, and the Prescott Insurance Company of Massachusetts, garnishee.) The court said:—

Whatever may have been the decisions of the court prior to the act of assembly of April 4, 1873, it seems to us that the language of the thirteenth section of that act settles this controversy. But only so far as the present motion is concerned. By the terms of that section the companies shall file with the insurance commissioner a written stipulation, duly authenticated by the company, agreeing that any legal process affecting the company served shall have the same effect as if personally served on the company within this State.

Under the act of assembly the company has agreed to be affected by *any* legal process, and this is enough to sustain the process.

The proportion of barratry as cause of loss at sea remained, like fraudulent incendiarism in fire insurance, a conjecture and inferential accusation. That moral hazard in marine insurance was in higher ratio than in fire insurance, was, however, a theorem approaching demonstration. Sailing craft were subjected to such delinquency in greater degree than steam vessels—over 50 per cent. of the steam-vessel cast-aways were coast wrecks, and about 8 per cent. were burned. March 25 and 26, a hearing of the case of John Redstone, first mate of the ship *Elizabeth Hamilton*, accused of barratry and arson, took place before the United States commissioner. The *Hamilton* had sailed from Philadelphia for Trieste, Austria, with a cargo of petroleum, December 20; the crew subsequently returned to Philadelphia in the steamship *Lykens*, and loss of the *Hamilton* between the Bermuda islands and Gibraltar having been reported by the captain of the ship, the Insurance Company of North America paid \$30,000—the amount insured on the petroleum—to the shippers, P. Wright & Co., Philadelphia. The prosecution was at the instance of the Mercantile Mutual, of New York, and other insurers of the hull.



Rentline, the captain, and Hutchinson, the carpenter, were involved in the charge, but they had escaped.

The steward of the ship and two seamen testified: Vessel began to leak when leaving Delaware bay. A storm came up as the Hamilton was off the Bermuda islands; by pumping the vessel was kept afloat, though she gained seven to eight feet of water, and it was said that the captain and mate tried to persuade the crew to stop pumping; wages for a month and a half offered without effect. The mate was active in cutting away the masts in the storm, while the opinion on the vessel was that the oil of the cargo would hardly allow the ship to sink. Crew wanted to take the vessel either into the Bermudas or Gibraltar, but the captain refused, saying "she would be condemned and I will lose two-thirds of her." The carpenter was accused of opening the dead-lights to let in the sea. As the vessel had settled very low down in the water, the Lykens appeared, and the Hamilton was abandoned. It was said that Captain Rentline was the last to leave the vessel; immediately then the ship was on fire.

Redstone was held in \$4,000 bail for trial. By Section 5364 of the Revised Statutes of the United States, the penalty for the crime charged was imprisonment not less than ten years and a fine not less than \$10,000; by Sections 5363 and 5366 the penalty was death when any person, owner or not, corruptly cast away or otherwise destroyed a vessel with intent to prejudice any underwriter.

Redstone was convicted in the United States District Court of conspiring to destroy the vessel, and seeking a new trial on the ground that as the bill of indictment contained counts charging a capital crime, the offence could be tried only in the Circuit Court, he was informed by Judge Butler that a decision "to grant a new trial may put your life in peril"; whereupon Redstone was willing to have the motion for a new trial withdrawn.

The Mercantile Mutual, of New York, discontinued business in 1879, after an honorable career of thirty-seven years. In 1878 the Mercantile Mutual wrote in Pennsylvania \$1,002,727 on marine and inland risks; premiums received \$10,035.35, losses paid \$387.24. The British and Foreign Marine, of Liverpool, was admitted November 15, 1879, supplying the absence of an exclusively marine company; Mather & Co., agents.

An incident indicating the situation of the real estate market, which caused the enactment of the statute of May 22, 1878, was described in this note of the American Exchange and Review:—

As showing how much the real estate question is now mixed up with insurance matters, we note that a Philadelphia fire insurance company puts a list of dwelling houses for sale as part of its regular business advertisement, which leaves the general reader in doubt as to whether the company is an insurance or real estate affair.

At a foreclosure sale, November 3, the American Life Insurance Company bought in the extensive Carleton Mill property. The mortgage held by the company was for \$153,000.

The Millville Mutual Marine and Fire wrote in Pennsylvania, in 1879, \$109,500 of marine risks and \$668,285 of fire risks; the account of premiums and losses for the year, in the State, of the Millville was as follows:—

	Premiums received.	Losses paid.
Marine, . . . . .	\$5,419 00	\$ 8,143 08
Fire, . . . . .	8,352 49	21,957 17

The Mercantile Marine, of Boston (fire and marine), re-admitted April 29, 1879, limited its writing in Pennsylvania to fire risks. To the contrary, the Phenix, of Brooklyn, wrote in the State in the year, marine and inland risks \$6,534,363, fire risks \$4,244,574. Besides those written by the Phenix and the Millville Mutual, some inland risks were written by four other-State companies.

In the ten-year period ended December 31, 1879, the net earnings of the marine department of the Insurance Company of North America amounted to \$2,077,491.28; such earnings of the fire department were \$981,040.15—the latter after discharging the losses by the great fires of Chicago, 1871, and Boston, 1872; the company's losses by these two conflagrations aggregating \$1,612,299.76. Upon the basis of determined premiums, the addition to net surplus in this decade was \$999,083.47—the dividends and taxes thereon paid in the period, \$2,111,775.35, being but \$32,750.48 in excess of the interest earnings.

Net surplus (determined premiums) January 1, 1880, . . . . . \$1,486,230 31\*  
 " (pro rata of unexpired premiums) January 1, 1880, 2,401,861 51†

The capital stock of the Union was now \$500,000, having been increased \$300,000, the stockholders paying in such sum in accordance with Section 27 of act of May 1, 1876, as per resolution adopted June 23, 1879. In \$704,222.70 of assets this company had a net surplus of \$44,129.12. Its insurances and losses in 1879 were:—

	Amount written.	Premiums thereon.	Losses incurred.
Fire, . . . . .	\$11,666,782	\$106,208 57	\$66,099 66
Marine, . . . . .	10,775,206	162,121 58	97,953 16
In force, Dec. 31, (fire) . . . . .	9,173,087	80,998 53	
" " (marine) . . . . .	970,739	45,229 83	

With its participating premiums, the Delaware Mutual continued as a marine-fire rather than fire-marine office. Outstanding scrip representing policyholders' return premium was redeemed in cash, in 1879, to the amount of \$232,920 (amount in 1878 \$239,868.30). In the company's liabilities was scrip whose redemption had been ordered, but payments uncalled for, viz.: 1878, \$5,370; 1879, \$7,060. Such non-payment remained a liability of the company for five years. Respecting cancellation of the certificates by the company after the lapse of such period, the Supreme Court decided as follows, affirming the judgment of Common Pleas, No. 4, Philadelphia, in *Lewis Lang vs. the Delaware Mutual Safety Insurance Company*:—

*Per Curiam:* The provision of the charter of the defendant, that if the holders of certificates of proportionate premiums shall not, within five years after publication of notice that they would be redeemed, present the same for payment, they shall be cancelled on the books of the company, is in no sense a forfeiture against which equity would

\* Charter standard.

† Standard of Pennsylvania insurance department.

relieve; nor will the question be examined with that strictness which is required in the case of a forfeiture at law. It is simply a limitation prescribed by the act of the legislature, and which the corporation would have no right to waive, as it is for the benefit of the other holders.

This company's scrip dividend of 1879 was at the rate of 25 per cent. of the entitled earned premiums, and the redemption of the respective yearly scrip issues had now reached the scrip of 1872. As the scrip of 1879 came upon the market, its purchase price was 97 per cent.; scrip of 1878, 97 $\frac{3}{4}$  per cent.

Experience as to the distribution of the award of the Geneva tribunal, for Great Britain's neglect of a neutral's duty, was repeating the history of the claims upon the Federal government arising under earlier commercial spoliations. Hostility to the status of the underwriter was shown. The four Philadelphia companies now issuing marine policies had been the sole Philadelphia payers of losses occurring through the captures by Confederate cruisers, and the officials of these were impelled by the duty they owed to their position to make a formal reply under date of April 16, 1880, to certain representations which had been made in the United States senate, in which reply they denied having "ever disclaimed any right to participate in the Geneva award," saying, "on the contrary, we unqualifiedly claim our respective proportions by right of subrogation."\*

June 7, the third and final liquidation dividend to the stockholders of the Anthracite was payable; total returned, about \$23 on \$40 paid in. In the same month, Court of Common Pleas granted a petition for the dissolution of the company according to the act of assembly.

Value of foreign exports at Philadelphia, year ended June 30, 1880, was \$46,589,584, imports \$38,933,832,—exports more, imports less, than in the previous year; petroleum exports 54,673,946 gallons. (Special regulations for vessels loading petroleum and its products, as to ballast, stowage, temporary between-decks, ventilation, etc., were to be conformed to, in order to obtain a certificate from the surveyors of the Board of Marine Underwriters.) Number

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\* In most cases where the underwriters had paid as for total loss, the owners of the vessels and cargoes had assigned their claims to the indemnifiers of their losses. The proceedings under the act of June 23, 1874, left \$9,533,800 undistributed of the \$15,000,000 awarded, and the question was whether the remainder of the fund should be divided among the shippers paying the war premiums or among the underwriters, or both; and besides this was the collateral proposition that the undistributed fund should either revert to the Federal government or be returned to Great Britain. February 9, a bill to revive and continue the Court of Commissioners of the Alabama claims was considered in the senate. Mr. Davis, of Illinois, reviewed the published proceedings of the Geneva tribunal, and gave eight conclusions which, he said, would control his vote on the bill. Three of these were:—

"3. The claims of the underwriters to indemnity for such losses, if the vessels or cargoes were covered by policies of insurance and the owners had been paid for a 'total loss,' were insisted on by our government and recognized by the tribunal, and they constituted a basis of the award. No distinction was made between the claims of the underwriters and those of the uninsured owner."

"7. The claim of the owners of the destroyed vessels or cargoes to damage therefor is property, and, as such, susceptible to a valid transfer, although provision for its adjudication and payment be the result of negotiation thereafter entered into between the government whereof the owner is a citizen, and that which did the wrong. His assignee, in such case, is alone entitled to the indemnity."

"8. The claim of the underwriter who has paid the owner of the destroyed property as for a 'total loss' is as valid in law and conscience as would be that of the owner had he taken out no policy of insurance upon such property."

Mr. Edmunds, of Vermont, argued from the proposition: "The Alabama committed no private injury, but committed acts of war."

Mr. Blaine, of Maine, said "he saw no logical basis of justice on which it [the claim of the underwriters] rested. The men who had gorged themselves on profits from the misfortunes of their countrymen were now to be authorized to thrust their hands into the treasury, in order that gains already exorbitant may be



of American vessels from foreign ports entered this year with cargo 474, tons 282,362; in ballast 10, tons 8,744; foreign vessels with cargo 1,059, tons 882,611; in ballast 170 vessels, 119,443 tons. Cleared for foreign ports: American vessels (cargo) 313, tons 228,428; ballast 34, tons 10,534; foreign vessels (cargo) 1,136, tons 899,996; ballast 22 vessels, 10,579 tons.

The books of the Philadelphia Maritime Exchange showed the following arrivals and clearances in 1880 in the coastwise trade:—

<i>Coastwise.</i>		
	Arrived.	Cleared.
Steamers, . . . . .	1,872	1,846
Ships, . . . . .	7	19
Barques, . . . . .	50	54
Brigs, . . . . .	44	49
Schooners, . . . . .	4,152	3,393

The Millville Mutual, with liabilities now about \$30,000 in excess of its assets, apart from premium notes (not bills receivable), withdrew from the State.

November 15, the largest number of insurance stockholders ever collected together personally in Philadelphia, met under a call of the board of directors of the Insurance Company of North America, to consider the proposition to increase further the stock capital by the subscription and payment of \$1,000,000, to be accompanied with another payment of \$1,000,000 as addition to the company's net surplus—the latter to balance and offset the strain or drain of the added stock capital upon the resources of the corporation. Such direct contribution of stockholders to net surplus was a novelty in insurance funding. The New York Safety Fund law retained earned net surplus while qualifying the application thereof; the proposition of the directors of the Insurance Company of North America was to add an unearned net surplus to what had been earned, and thereby, while so enhancing the "book value" of the capital stock above par, united the stockholder with the premium-payer as safeguard of the stock capital. The proposition, in

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made extravagant, and frightfully so, out of money that can be paid them only by the repeal of a statute enacted after the most elaborate discussion and mature deliberation." (This was equivalent to saying that if A sells goods to B on which there is a profit of 25 per cent., and other goods to C on which A loses 15 per cent., the bill against C should be paid on account of the misfortune of A, but the bill against B should not be paid, as thereby A would "gorge himself on profits from the misfortunes of his fellow-countryman, B.")

Mr. Thurman, of Ohio, in protesting against the doctrine set forth by Mr. Edmunds, stated that "there was scarcely a single claim before the tribunal not presented by this government as a claim of a citizen of the United States."

Mr. Thurman, in the course of further remarks, asked why the principle now applied to underwriters could not, with equal justice, be applied to vessel owners who "insured themselves," as the phrase is. If a merchant vessel made nine successful trips and was lost on the tenth, why not deny his claim for damages on the ground that he made more by the nine trips than he lost on the tenth? Nobody pretended that he was obliged to present a balance-sheet showing a net profit on all his war business. He hoped the senate would not refuse justice to insurance companies simply because they were rich corporations. Senators' oaths required them to do justice to rich and poor alike. The bill was then laid aside.

Upon the resumption of the debate in April, an amendment proposed by Mr. Hoar, of Massachusetts, was agreed to by a vote of yeas 38, nays 19. This amendment made the fourth section of the bill read as follows:—

And said court shall consider and allow all claims properly proved, directly resulting from damage on the high seas by Confederate cruisers, during the late rebellion, including vessels and cargoes attacked and taken on the high seas, or pursued by them therefrom, although the loss or damage occurred within three miles of the shore, and whether such claims be made by the original property-owner, or by an underwriter who paid for such loss or damage, which claims shall be considered as claims of the second class.

After further discussion the bill was indefinitely postponed—yeas 31, nays 28.

principle, was in accordance with the growth of doctrines tending to enhance the insurance security. In relation to stock capital the earned and the directly paid-in net surplus held precisely the same position. A statement of the "object and mode of the proposed increase of the capital and the surplus" gave this explanation:—

It has become evident that the insurance business of the future must be done to a great extent by companies possessing capital and reserve sufficient to enable them to control the business assumed, and compete successfully with the large foreign corporations which are extending their operations to the United States.

It must be borne in mind that the character of business has changed materially. While but a few years ago coffee was imported from Brazil in vessels which carried from 3,000 to 5,000 bags, steamers are now employed, the cargoes of which frequently reach 40,000 bags. Cargoes of 8,000 bales of cotton are now not infrequently in place of 3,000 or 4,000, which was formerly the maximum; and from every part of the world, owing to the size of the vessels, the amounts proposed for insurance have greatly increased.

Your company receives a large share of this increased business, and frequently is obliged to insure under its policies much larger amounts than it can with prudence retain. It has, therefore, been necessary to reinsure any sum in excess of the line retained, and the amounts paid to other companies have assumed large proportions; \$2,250,000 having been paid out in the ten years ended January 1, 1880, while the losses reached \$1,880,000, showing a profit of \$370,000, or 16 per cent.

The object of the proposed increase of capital and surplus is to enable the company to retain a larger share of the business accepted, and while the experience of twenty years leads to the conclusion that this can be done with good prospects of success, your directors have thought that it would be eminently prudent to create a fund in the form of an additional reserve, which would protect the proposed increase and form a bulwark to the present capital and surplus.

The advantage to be gained by such a fund is, that in case of necessity it could be drawn upon, so that the regular movements of the company should not be interfered with or even disturbed.

The mode proposed to attain the object is by the issue and sale to the stockholders of 100,000 shares of new stock at \$20 per share, one-half of the proceeds to be carried to capital and one-half to the reserve, which would provide the maximum of strength with the minimum of burden.

Payment was to be made in four instalments on each share (\$2, \$8, \$5, \$5), the first payable February 1, 1881, the last December 15, 1881. To stockholders paying in full prior to dates named, interest at 4 per cent. per annum allowed.

There was at the meeting complete unanimity as to the increase of capital stock alone, but the proposition as to net surplus and capital stock was to be accepted or rejected as a whole.

The assembled stockholders decided to vote upon the proposition, as formulated by a resolution, in the office of the company, "from the time of the recess of this meeting until 4 o'clock P. M. to-day, and upon the two following days between the hours of 12, noon, and 2 P. M., and that the meeting of stockholders will reassemble at this room on Thursday, the 18th day of November, at noon, to hear the return of the judges of election."

Of the 200,000 shares, 151,593 voted; \$1,152,960 (475 holders, 115,296 shares,) voted for the proposition; \$362,970 (76 holders, 36,297 shares,) against it.

New stock, to be issued to holders of existing stock at the rate of one share of new for each two shares held, if not subscribed for February 1, 1881, or not paid for by December 15, 1881, was to be sold at public auction in the city, on

thirty days' notice in the papers, for the benefit of the company, but at not less than \$20 per share. The market price of the old stock was \$38@ \$39 per share.

For the four years ended December 31, 1880, there had been losses of vessels in foreign trade, belonging to and bound to or from ports in the United States, amounting to approximately 500 per annum in number, and \$10,000,000 in value per annum. Losses on Lakes Michigan, Huron, Erie and Ontario, in 1880, involved 23,933 tons in 975 disasters; damages \$1,800,000—a greater amount than that of any one of the preceding four years. The four Philadelphia part maritime insurance offices wrote \$75,486,150 of Pennsylvania marine and inland risks in 1880, and paid for Pennsylvania marine and inland losses \$678,518 in the year.

At the seventy-seventh annual meeting of the Union Insurance Company, held January 11, 1881, President Richard Somers Smith—then 92 years old—resigned the office to which he had annually been reëlected since June 12, 1837. His connection with insurance in Philadelphia, marine and fire, from 1824, has been noted in the course of this narrative. Upon his retirement from active duties in the Union, he was made President Emeritus. Mr. Smith had been consul of the United States at Gottenburg, Sweden, in 1810–12, and in 1880 was created by the king of Sweden Knight Commander of the Royal Swedish Order of Wasa.

February 2, the Great Western (marine) Insurance Company of New York was authorized to transact business in the State—John H. Gourlie, attorney. This was an office writing annually about \$110,000,000 on marine risks, and with \$662,080 of paid-up capital, had total assets about equal to the amount of its gross annual premium receipts, running at approximately one per cent. on amount written.

The Philadelphia Contributionship having been charged 3 per cent. State tax on its net income, as per Section 10 of act of June 7, 1879, appealed from such charge on the following grounds:—

1. Because it imposes a tax on income derived from loans of the United States.
2. Because it imposes a tax on income derived from loans of the State of Pennsylvania, which, by the terms of the acts which authorize their issue, were expressly made payable free of State taxes.
3. Because it disallows the claim of the company, in estimating its *net income*, to deduct from its gross receipts its loss on United States securities purchased above par and paid off by the government at par.

The case of the Contributionship against the Commonwealth was heard in the Common Pleas of Dauphin county; the court held that the tax is not on the property, but on the franchise of the corporation, to be computed at the rate of 3 per cent. on its net income from all sources, including non-taxable bonds of the United States or of Pennsylvania. First two grounds of appeal therefore overruled. As to the third objection, the court said: "If a man gets less for a thing than he paid for it, he meets with a loss, and it impairs his capital. But it is the *annual* net earnings that are taxed. A diminution of capital does not necessarily diminish the annual net earnings. . . . We should prefer to say that the premiums paid for the bonds *should* have been



deducted when the investment was made, and might properly have been accounted for and taken from the gross receipts. But certainly the State cannot now settle a profit and loss account running through several years and many transactions. The law requires an *annual settlement* producing an annual tax, and upon an annual basis."

The court entered judgment on the case stated in favor of the commonwealth, and the defendant taking writ of error, the Supreme Court affirmed the judgment below.

Sterrett, J.: . . . . . The right of the State to impose a tax on the franchise of any corporation that is indebted to it for existence and protection, is too clear for argument. If the right exists, and it undoubtedly does, the manner of its exercise must be left to the wisdom of the legislature; and perhaps no standard or measure of taxation can be adopted that will operate more justly or equitably than a per centum on net earnings or income. . . . . (2 Outerbridge, 48.)

The progress of established agencies of non-State companies, and the fixedness of their interest in the locality, induced the purpose to have special and suitably adapted buildings of their own, of a character commensurate with the status of the institutions so represented. An era in the erection of imposing insurance buildings—especially on Walnut street—had begun. June 1, 1881, an act was approved, entitled An Act to enable Foreign Insurance Corporations and Joint-Stock Companies to hold Real Estate in this Commonwealth. Its three sections were in these terms:—

SECTION 1. Be it enacted, etc., That hereafter it shall be lawful for all corporations and joint-stock companies or associations, chartered, created or existing under the laws of any other State, or of any foreign country, for the purpose of carrying on the business of insurance, to take, hold and enjoy in any part of this commonwealth, either in its corporate or associate name, or by a trustee or trustees, real estate and premises in which such corporations, joint-stock companies or associations shall carry on their said business, and to mortgage or convey the same, or any part thereof, and to lease any part of the buildings erected thereon, not requisite for the transaction of their said business.

SEC. 2. That the title to any real estate in this commonwealth, now held by, or in trust for, any such corporation or joint-stock company or association, for the purposes aforesaid, is hereby confirmed, to the same effect as if the said real estate had been purchased, held or owned under the provisions of this act.

SEC. 3. That all acts of assembly, or parts of acts, inconsistent herewith are hereby repealed.

With an abatement in legislative imposition, Pennsylvania companies were exempted from taxation on non-Pennsylvania business, on the following terms, by a supplement to the act of June 7, 1879, approved June 10, 1881, viz.:—

SEC. 7. That all insurance companies which shall, within thirty days after the approval of this act, pay into the treasury of this commonwealth the amount of money claimed by the commonwealth for taxes upon their gross premiums, for the period of time between the twentieth day of March, Anno Domini one thousand eight hundred and seventy-seven, and the first day of January, Anno Domini one thousand eight hundred and eighty-one, together with interest upon the same, shall be liable, from and after the first day of January, Anno Domini one thousand eight hundred and eighty-one, during the continuance of this act, to no taxes upon their premiums, except upon such as were or shall be received from business transacted within this commonwealth.

So the original unsuccessful proposition of 1879 was arranged to date.

By another State enactment approved the same month—June 29—Section 27 of act of May 1, 1876, was amended to read as follows:—

SEC. 27. Any existing fire or fire and marine insurance company, and any stock company formed under this act, may at any time increase the amount of its capital stock, if

authorized so to do by the stockholders holding the larger amount in value of the stock, at a meeting specially called for that purpose, of which at least sixty days' previous public notice shall have been given. At such meeting of the stockholders, and at all other meetings thereof, each stockholder shall be entitled to cast, either in person or by proxy, subject to such regulations as to voting by proxy as the by-laws of the company may prescribe, one vote for each share of stock that shall have stood in his or her name on the books of the company for at least three months previous thereto. Increase of capital stock as aforesaid may be made by increasing the number of the shares of stock, or by increasing the par value of the same, and such increased shares or increased par value shall be allotted *pro rata* to the stockholders of said company according to their interest, and may be paid in whole or in part out of the accumulated reserve of the company, in case the condition of the company warrants such allotments, or the same may be disposed of as is provided in this act for the organization of stock companies. The stockholders may direct the sale of the new stock by auction or otherwise, and for such price per share as they may designate, or may require the payment of any sum they may see fit for the right to subscribe for the increased stock to be issued: *Provided*, That new stock shall never be disposed of for less than the par value, to be received by the company and constitute capital, and that every stockholder shall be entitled to a like option with all other stockholders of taking the new shares in proportion to his interest in the company, and that all moneys thus received beyond the amount contributed for capital shall be applied as directed by the stockholders, and the company may direct the sale of options not taken after a reasonable time shall have been given for electing to take or refuse the same. No portion of the funds of a company shall be regarded as accumulated reserve subject to allotment under this section, except such amounts as may remain after charging the entire amount of premium receipts on undetermined policies, in addition to capital stock and all other liabilities. Before any such company as aforesaid shall be authorized to increase its capital stock as herein provided, it shall file with the insurance commissioner a certificate setting forth the amount and manner of such desired increase, and the proceedings of the stockholders authorizing the same, and thereafter such company shall be entitled to have the increased amount of capital fixed by said certificate, and the examination of securities composing the capital stock thus increased shall be made in the same manner as is provided in this act for capital stock originally paid in. Whenever any existing fire or fire and marine insurance company shall, by a resolution of its board of directors, accept of the provisions of this section of this act as a part of the charter of said company, and a duly certified copy of such resolution shall have been filed in the office of the insurance commissioner, the charter of said company shall be deemed and taken to have been amended by the addition thereto of this section, which shall have the same force and effect as if a part of the company's original charter, constituting a supplement thereto.

This enactment was an additional supplement to the act establishing an insurance department. Any question of *ultra vires* in the exercise by the majority of stockholders of the option to "require the payment of any sum they may see fit for the right to subscribe for the increased stock to be issued," was met by this validation:—

SEC. 2. That all action taken by any existing fire or fire and marine insurance company, increasing and disposing of its capital stock in the manner above provided, be and the same is declared to be a legal and valid exercise of corporate power.

The old maritime rule excluded jettisoned deck cargo from the benefit of general average contribution, by reason of the extra peril of such cargo. This rule had, however, undergone some qualification by the operation of customary use, besides that arising from steam navigation; river craft or small coasting vessels having become more or less an exception to such exclusion. Then, when the cargo was carried on deck by agreement between the owner of the cargo and the owner of the vessel, contribution could be claimed for the jettisoned cargo from the owner of the vessel. R. D. Wood & Co. had shipped on a sailing vessel then lying at Millville, N. J., iron pipe, placed part above and part under deck;—thirty tons were to be delivered in New York, and the rest at West Point. The Phenix Insurance Company of Brooklyn, N. Y., issued a policy on such cargo under deck, but rated the deck-load at a premium which



the shippers would not pay. In the course of the passage tempestuous weather arose, and it became necessary to free the vessel of a part of the deck cargo.

Upon a claim for contributory charge upon the cargo stowed below deck, suit was begun in the District Court, Eastern district of Pennsylvania, (R. D. Wood & Co. *vs.* the Phenix Insurance Company.)

Butler, J.: . . . . . Was the cargo carried on deck in pursuance of a general custom of the trade? On this point there is the testimony of a single witness, the libellants' former book-keeper. His knowledge of the subject does not seem to extend beyond his employers' business, and his testimony is virtually confined to a statement of their practices. His general expressions of belief are of no value. There is no evidence that it is customary to carry, generally, on deck between Millville, or other adjacent ports, and New York and West Point, nor so to carry freight of the particular description here involved. The testimony need not have been confined to the carriage of iron pipe, for it may be that this has not been sufficient to establish a custom. It might have extended to other bulky cargo of similar character. The burden of proof is on the libellants; and to establish a custom so as to take their case out of the general rule of law, the evidence should be clear. It is not; and the claim cannot, therefore, be allowed.

An appeal was taken to the Circuit Court.

McKenna, Cir. J.: . . . . . In the court below, the case turned upon the existence of such a custom, and was properly decided upon the insufficiency of the proof of it. Since the case came into this court further evidence has been taken, which shows it to be the custom, where a full cargo of gas pipe is shipped, that part of it is stowed above and part below deck. This is the uniform usage among manufacturers of gas pipe east of the Alleghenies who employ water transportation, and for the reason that, on account of the light weight of the article compared with its bulk, the full capacity of the vessel cannot be made available without such distribution of the cargo. It is coeval with the manufacture and transportation of gas pipe on a large scale, and it is therefore shown to have been of such general prevalence and long continuance as to entitle it to be recognized as a general custom of the trade. There must, then, be a decree for the libellant against the respondent for its contributory portion of the loss caused by the jettison. This is admitted to be \$77.50, and for this sum, with interest from the date of filing the libel, and costs in this court alone, decree will be entered. (14 Phila., 545 and 483.)

In July, 1881, forty-one years after the prior national organization of marine insurers at Boston, the takers of sea risks organized the Association of Marine Underwriters at New York, electing the officers and selecting the committees on the 19th of the month. Thomas C. Hand, of the Delaware Mutual, of Philadelphia, was chosen president; Charles Platt, of the Insurance Company of North America, was appointed chairman of the committee on forms of policies, rates, commissions, etc., and also chairman of the committee on loading of vessels, losses and averages. The Philadelphia representative in the executive committee was John B. Craven, of the Union Insurance Company. Rules arranged by this association, August 16, for vessels, sailing or steam, wood or iron, loading grain in bags (dunnage, shifting planks, etc.), or in bulk (bins, etc.), were obligatory for issue of certificates by the surveyors, and were approved by the Philadelphia Maritime Exchange.

On the 29th of the same month in which the Association of Marine Underwriters was formed, Arthur G. Coffin died, in the 82d year of his age. Becoming president at the close of the commercial and financial depression retarding the city and the institution from 1815 to 1845, he began the great development of the Insurance Company of North America, and no other comment on his life's work is needed than these words, written at his death:—



Half a century an underwriter, and half a century of even, progressive success as an underwriter, marks out for lasting distinction the memory of Arthur G. Coffin as part of the insurance history of Philadelphia. Never flashing into dazzling exploits, never subjected to violent and destructive reactions, he built surely, safely, and well,—and what he built, endures.

The two agencies of non-State marine companies showed the following results of Pennsylvania writing in 1881:—

	Risks written.	Premiums received.	Losses incurred.
British and Foreign Marine Ins. Co., . . .	\$3,237,184	\$18,826 72	\$7,901 28
Great Western (marine), N.Y., . . . . .	3,627,979	12,042 58	979 36

The examinations in progress of city companies by the State insurance department and the respective reports of companies exhibited these asset totals at the close of the year:—

	<i>Assets.</i>	
	Examiner's Report.	Company's Report.
Delaware Mutual, . . . . .	\$2,047,837 82*	\$2,022,837 82
Insurance Co. of North America, . . . . .	8,770,303 89	8,818,805 38
Insurance Co. of the State of Pennsylvania, . . . . .	707,470 86	706,641 48†
Union, . . . . .	855,693 11	894,561 49

Net surplus of the Insurance Company of North America, per examiner's account, was \$3,421,811.61, December 31.

This year was marked by the exceptional circumstance of inland-marine risks showing a comparatively more favorable result than ocean risks. On North Atlantic vessels and cargoes the losses had been in high ratio. Grain-carrying vessels demonstrated the peril of bad stowage of bulk grain without strong shifting boards.

A question as to whether earned surplus or insuring value was substantially a part of the capital stock, grew out of the increase of the capital of the Insurance Company of North America—an executor of a decedent's estate selling subscription privilege. Was this privilege, arising as a value out of the surplus of the company and given to the shareholder without diminishing the number of shares held, or the par of the same, equivalent to a dividend?

Mary Condry dying in 1880, bequeathed all her estate, real and personal, to her cousin, Elizabeth B. Biddle, in trust, to collect and receive the income and interest thereof during life. Included in such estate were 108 shares of the capital of the Insurance Company of North America. The executor, instead of subscribing to the new stock, sold, as stated, the privilege to do the same for \$533.25, in the open market. The increase of capital lowered the technical book value figures 75 cents per share, or \$81. The life legatee claimed that she was entitled to receive the proceeds of the sale, less \$81, or \$452.25. That is, such an amount of profit had accrued upon the interest-earning principal bequeathed. Had the whole actual net surplus of the company been distributed by formal dividend, there was no doubt as to the dividend appertaining to the 108 shares, in such an event, belonging to the life legatee.

Orphans' Court. Hanna, P. J.: . . . . . There was no dividend declared, either in stock or a share of the surplus fund of the insurance company. . . . . Each stockholder was to pay twenty dollars for a new share. This was all he received,

\* October 31. † Not including \$1,579.92 of premiums not more than three months due.

and no portion of the surplus fund. That these new shares which the decedent's estate would be entitled to would be a part of the principal estate, seems clear. And if the executor had elected to subscribe for the stock, he could only take "principal" to pay for them, and not "income," for the latter belonged to the legatee for life. If this be so, then it follows that the money realized by the sale of the option to subscribe belongs to the "principal" of the estate.

Being so decreed, the decree was, on appeal, affirmed by the Supreme Court.

Mercur, J.: . . . . . The entire value of the stock, with all its incidents, at the death of the testatrix, constituted the principal of the estate. . . . . Whatever value beyond par the stock then had, by reason of the large surplus fund of the company or otherwise, attached to the stock and formed a part of the principal. . . . . Whatever was capital must remain capital. The executor could not take therefrom and give to the life tenant, to the injury of the residuary legatee. . . . . The right of a stockholder to subscribe for new stock was a right to change the form of the investment; but that which existed as principal did not, by the exercise or sale of that right, become income. . . . . The distinction between the surplus fund existing at the time of the death of the testator, and a fund accumulated afterwards, is distinctly recognized in *Earp's Appeal*. (4 Casey, 368.) That which had accumulated before the death of the testator was held to be part of the principal of the fund, and that which accumulated after his death to be income. The correctness of the principle there ruled is expressly affirmed in *Wiltbank's Appeal* (14 P. F. Smith, 256), although, under the facts of the case, the profit on a sale of the newly subscribed stock was held to be income. (3 Outerbridge, 278.)

Sharswood, C. J., and Trunkey, J. dissented.

In the Circuit Court of the United States, in the case of a collision on the high seas, and not within the waters of the United States, between a Belgian steamship and a Norwegian barque, petition for reargument on pleas to jurisdiction, a conclusion of law reached was, "that the admiralty courts of the United States have jurisdiction of collisions occurring on the high seas between vessels owned by foreigners and of different nationalities." In the same court, this year, it was held that the casting away of disabled rigging, further endangering a vessel in a storm, was not relinquishment of "wreck," but sacrifice for the common benefit, and loss to be compensated by general average.

In the Association of Lake Marine Underwriters, meeting at Detroit, March 8, the Union, of Philadelphia, was represented. J. B. Craven, of this company, was elected secretary of the association.

May 23, the United States senate passed the house bill to distribute the remaining Geneva award fund—first to claimants who had suffered by cruisers that were exculpated by the Geneva tribunal; second, to the claimants on account of war premiums, excluding the insurance companies. The bill was signed by the president, June 5.\*

There was and had been a long-time doctrine that interest on loans is made up of the sum compensating for the allowed use of the money and a

\* United States Laws, 1881-2, Chap. 195, p. 98. An Act reëstablishing the Court of Commissioners of Alabama Claims, and for the distribution of the unappropriated moneys of the Geneva Award.

SEC. 5. That the first class shall be for claims directly resulting from damage done on the high seas by Confederate cruisers during the late rebellion, including vessels and cargoes attacked on the high seas, although the loss or damage occurred within four miles of the shore, excluding claims which have been proved pursuant to Section 11 of said Chapter 459. The second class shall be for claims for the payment of premiums for war risks, whether paid to corporations, agents, or individuals, after the sailing of any Confederate cruiser.

SEC. 6. That in examining claims in either class, it shall be the duty of the court to deduct any sum received by any claimant as an indemnity, dividend, set-off, or otherwise, so that the actual loss of such claimant only shall be allowed.



premium for the insurance of the risk attending the loan; and as the sea view of this history closes, a law incident occurs in the range of this compensation, which turns thought back to the measure or measurelessness of remuneration for contingency which the bottomry bond represented at the beginning.\* A railroad company proposed deferred income bonds at \$34,300,000 on the face, for \$10,000,000; principal irredeemable, but interest to be paid *when and after* 6 per cent. had been paid upon the common stock.

It was objected that this was usurious.

Usury denotes, so far as the word has a meaning, the receipt of illegal interest, or contract for the same. There were two elements in the proposition—one, a *certainty* that the principal would never be paid, the other, the *doubt* as to whether any interest would ever be paid. Was there any normal remuneration or excess payment in such case?

Supreme Court of Pennsylvania. Paxson, J.: It is sufficient to say in regard to the first objection, that as the interest on the "deferred income bonds" is payable only upon a contingency, the contract is not usurious—*non constat* that the company will ever pay anything to this class of bondholders. The contingency which will entitle them to interest may never arise, and is reasonably certain to be postponed for a considerable period. There is, therefore, no contract for the payment of more than legal interest. It is settled law that where the promise to pay a sum above legal interest depends upon a contingency, and not upon the happening of a certain event, the loan is not usurious. (*Spain vs. Hamilton*, administrator, 1 Wall., 604; *Lloyd vs. Scott*, 4 Peters, 205.) This point does not need elaboration.

Yet insurance had threaded the intricacies and eventualities of contingency, and reduced to defined probabilities the numerical happenings yet to be in each mass of given possibilities. Such is insurance born of the average of the sea.

Interest being legally 6 per cent. per annum, any excess in value received of a *perpetual* annuity of \$600,000 would have been usury *de facto*, but then the risk remained to be compensated for. With \$10,000,000 paid, there would have been but a purchase of nearly  $1\frac{3}{4}$  per cent. interest per annum upon \$34,300,000.

From 1792 to 1882 thirty-five Philadelphia companies issued policies on navigation risks—a few of these associating inland navigation with fire

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\* The bottomry bond and the marine policy had been in contrast in the United States Supreme Court, October term, 1877, in the case of the Delaware Mutual Safety Insurance Company *vs.* John H. Gossler *et al.*; error to the United States Circuit Court for the district of Massachusetts. The plaintiff was underwriter on the cargo of the barque Frances, consisting of sugar, on a voyage from Java to Boston. Encountering a hurricane, the master was compelled to cut away the masts to save the vessel, and put into a neighboring port for repairs. The master then executed a bottomry bond for the sum necessary to liquidate those expenses, with marine interest of  $27\frac{1}{2}$  per cent. upon the cargo and freight. Again before reaching her port of destination she encountered a storm, in the month of December, and was wrecked and driven ashore on the coast of Cape Cod. The defendants, who were the agents of the bondholders or of their assignees, succeeded in saving nearly half of the cargo, which was afterwards sold at Boston with consent of the owners. As the barque lay on the beach she was surveyed, and being found incapable of repair, she was broken up and her material sold in parcels; and the owners made an abandonment to the underwriters, under each policy, of the respective dates, claiming payment on each policy as for total loss. Such claims the underwriters paid, and received from the owners an assignment and transfer in writing of the sugar, and of all their right, title and interest therein. The defendant held the proceeds of the sugar, and in court authorities were cited to show that the doctrine of constructive total loss is in no respect applicable to a bottomry bond.

Clifford, J.: . . . . . By an abandonment the insurer is placed in the situation of the insured whom he represents, and can have no greater right than the insured would have had. Unlike that, the lender on bottomry loses his remedy only when the ship or other property hypothecated *is wholly lost*, and where parts are preserved, such parts are esteemed his proper goods, being presumed to be the product of his money, and he, therefore, takes preference of the owner or insurer. In case of shipwreck, "the owners are not personally bound, except to the extent of the fund salvaged which has come into their hands." (*The Virgin*, 8 Pet., 554.)



hazards. Twenty-six of such were in existence at one time—not more than seven of such twenty-six companies can be classed, from the commercial standpoint, as positive frauds. Whatever might have been the weakness, irregularities, and management deficiencies of others, they were conducted with the integrity of the average business house. Of the thirty-five companies, about twelve were absolutely fraudulent. No company of the city doing at any time an exclusively marine business was ever started or conducted as a fraud, though all of the practices might not be commended. Of the twenty-six coexisting companies, one survives as a prosperous fire insurance company; four others maintain the maritime contract and adhere to its obligations. That they have stood the tests and the force of changing conditions, is testimony to their worth and the efficiency of their work.

At the closing year of two centuries from the founding of Philadelphia upon or near the site of the Swedish settlement by the Delaware (conquered by the Dutch), the city's four corporate underwriters yet representing maritime insurance evinced their adherence to the transit risk "going by water," in writing \$418,979,414 upon marine hazards, against \$256,528,638 upon temporary fire hazards.

1882.

	Delaware Mutual Safety.	Ins. Co. of North America.	Ins. Co. of the State of Penn'a.	Union.
Date of Organization, . . . . .	Aug. 6, 1835.	Dec. 11, 1792.	Nov. 5, 1794.	July 25, 1803.
Capital, paid up (1882), . . . . .	\$360,000	\$3,000,000	\$200,000	\$500,000
Marine risks written, . . . . .	66,309,764	251,764,494	22,913,350	77,991,806
Fire risks written (temporary), . . . . .	14,149,262	182,208,497	17,786,465	42,384,414
Marine premiums on risks written, . . . . .	554,078	2,007,016	199,627	548,836
Fire premiums on risks written, . . . . .	104,561	2,042,200	159,708	428,956
Marine losses incurred, . . . . .	250,171	1,680,000	199,961	296,610
Fire losses incurred, . . . . .	57,697	980,000	95,709	272,175
Income (cash), . . . . .	661,456	3,890,016	296,136	726,252
Disbursements, . . . . .	674,220	3,832,837	289,771	731,322
Assets,* December 31, . . . . .	2,005,493	8,868,911	718,209	884,299
Liabilities, December 31, . . . . .	1,567,537†	5,639,605	576,493	854,040
Total premiums received from organization to December 31, 1882, . . . . .		64,101,353	16,807,675	16,162,232
Total losses paid from organization to Decem- ber 31, 1882, . . . . .		46,744,768	13,951,923	11,763,256
Total dividends declared from organization to December 31, 1882, . . . . .		7,203,934	4,046,406	1,812,599

Total marine and inland business transacted in Pennsylvania, in 1882, was as follows:—

*Philadelphia Companies.*

	Risks written.	Premiums received.	Losses paid.
Delaware Mutual Safety, . . . . .	\$21,397,693	\$188,135	\$ 75,184
Insurance Co. of North America, . . . . .	34,661,598	246,997	293,121
Insurance Co. of the State of Penn'a, . . . . .	5,383,524	38,795	18,836
Union, . . . . .	4,494,492	56,192	47,137

*Other Pennsylvania Companies.*

			Losses paid.
Allegheny, Pittsburgh, . . . . .	\$61,307	\$1,691	. . .
Artisans, " . . . . .	45,229	314	. . .
Birmingham Fire, Pittsburgh, . . . . .	7,000	590	. . .

\* Total admitted; Pennsylvania insurance department.

† Including outstanding scrip.

	Risks written	Premiums received.	Losses paid.
Boatman's F. & M., Pittsburgh, . . . .	\$200,312	\$5,828	\$5,623
Cash, " . . . .	11,500	820	. . .
Citizens', " . . . .	201,935	7,109	267
City, " . . . .	333,728	5,736	1,512
Manufacturers & Merchants', Pittsb'h,	457,925	5,629	1,995
Monongahela, Pittsburgh, . . . . .	91,925	663	887
Pittsburgh, " . . . . .	146,739	4,117	4
Western, " . . . . .	411,749	4,943	484

*Non-State Companies.*

Ætna, Hartford, . . . . .	\$645,000	\$1,935	\$720
Buffalo, N. Y., . . . . .	4,500	12	. . .
Great Western, N. Y., . . . . .	2,030,488	21,866	8,201
Louisville Underwriters, Ky., . . . .	152,807	4,345	311
Northwestern National, Wis., . . . .	1,223,301	8,717	5,483
Phenix, Brooklyn, N. Y., . . . . .	2,151,794	8,699	22,836
St. Paul Fire and Marine, Minn., . . .	320,983	4,820	538
Shoe and Leather, Boston, . . . . .	6,878	383	. . .
British and Foreign, Liverpool, . . .	2,626,535	17,545	1,507

In the ten years ended December 31, 1882, the Pennsylvania companies assumed the hazards of \$3,025,028,074 of marine and inland risks, receiving aggregate premium of \$26,500,134; and the losses paid were 78 per cent. of such premium, or \$20,674,935. While the average premium on such business was 91 cents, the fire business of the Pennsylvania companies in such time—more than double the marine and inland in amount written—showed an average premium of \$1.05, with 56 per cent. of premium taken to pay losses. Assuming 35 per cent. of the fire premium as required for expenses, and 20 per cent. of the marine premium, the aggregate fire business would have had 9 per cent. of premium as net earning of the companies, and the marine business 2 per cent.

It is not possible to compare absolutely the rates of the respective general hazards on fire and on marine risk from ratio of loss to risks written in a year. The element of time, which determines the policy hazard, demands the amount of risks in actual force for any given date of the year. Approximately, however, taking the mean of the insurance in force December 31 of a given year and December 31 of the immediately preceding year, this will present the mean of insurance in force in the year; in marine insurance the policy is of average short duration, though the time policy is for a long period in comparison with the voyage or trip policy. Assuming, for illustration, such a mean as the foregoing to indicate something of the mean policy duration (proportion of time being as mean amount of insurance in force to amount written), the marine business of the Philadelphia companies in 1882 would show the following conditions:—

	Ratio of Loss Incurred to each \$100 of		
	Insurances written in the year.	Mean amount in force in the year.	Mean dura- tion of policy. (Days.)
Delaware Mutual Safety, . . . . .	\$0.38	\$1.89	72.8
Insurance Co. of North America, . . . .	0.67	5.62	43.4
Insurance Co. of the State of Pennsylvania,	0.87	10.56	30.1
Union, . . . . .	0.38	21.25	6.4

The amount of insurance in force December 31, in the Union, however, denoted rather the minimum than the mean of the year. Ratio of *annual* hazard is denoted approximately by the second column—the proportion doubtless would have been much qualified, had insurance in force been taken for date of June 30. If an office incur one per cent. loss on 100 monthly marine policies of \$1,000 each, 100 such policies each month equably distributed throughout the year, there would be 100 policies in force December 31, and the \$1,100,000 insurance determined sustaining a loss of \$11,000, there would be a loss of one per cent. upon the determined policies, representing an inherent loss rate of 12 per cent. per annum of policy sum.

The marine policy! The history and traditions of many centuries are behind it. Its story is part of empire's sweep through changing civilizations. It created the commerce the magnet made practicable. It founded all the indemnifications that are as security in doubt, that assuage misfortune and lift up from disaster. So far as relates to one strip of earth, something of the maritime insurance annals has here been given. The past events in their succession and evolution have come to the verge of the present, as that present verges upon the future. There's sunset glow on the day that is told. Marine insurance has ceased to be, in the scope of its protection, the greatest of the underwritings. It is receding relatively—absolutely receding in the United States, and perhaps so declining throughout the globe. Propulsive steam that has broadened the application of the fire policy, as such propulsion has facilitated and multiplied the industries, has restricted the province of that beneficent contract "justly deemed one of the noblest creations of human genius," in reducing the duration of its hazards. It is not for the recorder of the past to enter upon the problems and the promises of the future, but through the recorded time shines clear the bright revealing that though the letter of that contract may perish from the waters and the land, its spirit that has moved upon the face of the deep will live, creative still.



# PART II.

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FIRE INSURANCE.



# FIRE INSURANCE.

## CHAPTER I.

*William Penn at Coaquenaque—A Retrospect of the Delaware Settlements—Holme's Survey and Street Plan of Philadelphia—The Early Cabins—Building of Brick Houses—The First Mechanical Industries—The Fire Contingencies—Fire Extinguishing Appliances—Chimney Fires and Chimney Sweeping—Municipal Provisions for Fire Extinguishment—Fire Preventive Legislation—Act of 1701—Act of 1721—Nitric Acid explodes—Act for the Better Prevention of Fires in Bake Houses, Cooper Shops, etc.—Fire at Fishbourne's Wharf and King Street—No Fire Insurance—More Fire Apparatus authorized—Building of a Fire Engine—Organization of a Company of Firemen—Conflagrations—Boiling Oil—The Axe as a Fireman's Tool—Enumeration of Dwelling Houses in the Respective Wards of the City, 1749—The Fire Probabilities, 1751—A Project for the Insurance of Houses from Fire. (1682-1752.)*

WHEN the Proprietary of Pennsylvania arrived at Coaquenaque (the Indian name of the tract of land above the junction of the Delaware and the Schuylkill), a wooden building named the Blue Anchor Tavern was nearly completed at "the Dock," (Dock creek) and the Blue Anchor Landing was established.\*

There is no positive information that shows at what time Penn arrived in Philadelphia [after a short visit to Upland]. The record of the Society of Friends says: "At a Monthly Meeting the 8th 9th month, 1682: At this time Governor William Penn and a

\* Nearly three-quarters of a century had elapsed since Henry Hudson, in the service of the Dutch, had discovered the Delaware (1609) and the settlement of the Delaware region from the Capes upwards began a few years afterwards. The Dutch West India Company, with great trading privileges along the coasts of America and governmental authority, was incorporated by the Netherlands, June 3, 1621, and in 1623 the Dutch took possession of the Delaware region naming the stream the Zuydt or South river, erecting fortifications on its banks. In 1627 the first colony of Swedes arrived, seeking a location not occupied by the Dutch and partly aided by Amsterdam coöperation. The Swedes built a fort on Manquas creek and founded Christiana. Subsequent Swedish arrivals settled as far north as both banks of the Meneyacksekyl or Schuylkill river; a wooden church of the Swedes on the island of Tinnecum was consecrated September 4, 1646, and about the same time colonists from Maryland had made their homes by the Schuylkill. Contests between New Netherlands and New Sweden were terminated with the seizure by the Dutch in 1655 of the Swedish fort on the island of Tinnecum or Tinicum, and the South River country was then governed by deputies of the Dutch West India Company's Director-General at New Amsterdam until 1664, when the New Netherlands being given by Charles II of England to his brother James, Duke of York, Col. Nicholls capturing the Dutch possessions on the North and the South river was appointed governor, and Dutch sway over the South River country ceased.

Up to 1680, most of the patents to the land in Coaquenaque were held by Swedish settlers, and a stock house at Wicaco had been fitted up as a Swedish church in 1677, but Friends from Great Britain about this date were also holding meetings at Shakamexunk.

It is not within the province of this History to investigate the date at which the Baptist church at Pennepek was built. A local tradition names the date as 1646; to the contrary are these statements: 1. "Rev. Mr. Henson in his historical sermon to the Philadelphia Association of 1876 says that in 1682 there was in all Pennsylvania only one Baptist, and that one was 'a little girl just come from Wales and her name was Mary Davies.'" (Scharf and Westcott, II, 1301). 2. "The first settlers of the Baptist persuasion who arrived in Philadelphia came from Radnorshire in England and Killarney in Ireland about the year 1686, and settled on the banks of the Pennipeck creek, ten miles N. E. of Philadelphia. The Rev. Mr. Dongan from Rhode Island had settled two years before at Coldspring, above Bristol, on the Delaware, where he gathered a church, the grave yard of which alone now remains [1811]. He baptized and ordained Elias Keach, an English youth who settled at Pennipeck." (Mease, 204).



multitude of Friends arrived here and erected a city called Philadelphia about half a mile from Shackamaxon, where meetings, etc., were established, etc. Thomas Fairman, at the request of the Governor, removed himself and family to Tacony where there was also a meeting appointed to be kept and the ancient meeting of Shackamaxon removed to Philadelphia, from which also other meetings were appointed in the Province of Pennsylvania." (Scharf and Westcott, I, 98.)

Penn's surveyor-general, Thomas Holme, planned the area of the original city where the space between the Delaware and the Schuylkill was narrowest above the immediate *débouchure* of the Schuylkill, giving a front or width on each river of one mile and 90 feet, and a length or depth of 2.1 miles, the area to be crossed by 9 streets east and west, (High street, somewhat central, 100 feet wide,) and these east and west streets to be intersected at right angles by 21 streets—Broad street having 100 feet width and Front street on each river 60 feet width. There were about a score of huts on the Delaware front when this plan was laid out. At such settlement on the Delaware and the Schuylkill a city was begun under the organizing statesmanship of its founder. In 1681 the first English colonists sent out by William Penn had arrived in the vicinity. In 1682 and 1683, 357 houses were built. It was a colony made up of persons having property, education, and social refinement. The English common law, the ideas of English literature, and the usages of English trade were ruling regulations.

The log cabin of the first settlers, as well as the caves which had given shelter in the immediate emergencies, were succeeded by log and clapboard structures—one ground floor story and lodging loft with clapboard floor—but brick making was begun nearly as early as ship building. Robert Turner built a brick house about the close of 1684 at the south-west corner of Front and Mulberry streets, and in a letter written August, 1685, said:—

Now as to the town of Philadelphia it goeth on in Planting and Building to admiration both in the front & backward and there are about 600 houses in 3 years time. And since I built my Brick House the foundation of which was laid at thy going, which I did design after a good manner to encourage others from building with Wood, it being the first, many take example, and some that built Wooden Houses are sorry for it: Brick building is said to be as cheap. Bricks are exceeding good, and better than when I built. More makers fallen in, and Bricks cheaper than they were before at 16s. English per 1000 and now many brave Brick houses are going up with good Cellars . . . . .; For William Frampton has since built a good Brick house by his Brew house\* and bake house and let the other for an ordinary . . . . .; also Pastorus the German Friend agent for the Company at Frankford† with his Dutch People are preparing to make Brick next year. Samuel Carpenter is our Lime Burner on his Wharf. . . . . We build most Houses with Belconies. . . . . We are now laying the foundation of a large plain Brick house for a Meeting House in the Center (sixty foot long and about forty foot broad). . . . . A large Meeting House 50 foot long and 38 foot broad also going up on the front of the River for an Evening Meeting. . . . . Many towns people settling their liberty Lands.

Bricks, however, continued to be exported from England to the colony.

A tannery, saw mill and glass (making) house were projected by the Free Society of Traders, and some English Friends started a glass house and pottery

\* This, the first brewery in the town, was on Front street, below Walnut.

† The Frankfort company for establishing a German settlement in Pennsylvania was a sequence of a visit by Penn to Frankfort, Germany, in 1677. The stockholders were Mennonites and Friends. Francis Daniel Pastorius took the lead in this German emigration to Pennsylvania, secured, October, 1683, a warrant for 6,000 acres of land, and founded Germantown, north of the "Liberty Lands of Philadelphia City." William Rittinghuysen, or Rittenhouse, a Mennonite preacher, erected, in 1790, a paper mill on a creek running into the Wissahickon.

at Frankford, near the city. Erection of grist mills near the city was begun in 1683. A mill was in course of erection in 1690 "to make Coal\* and Rape Seed Oyle." When the Friends "had six meetings fixed around the city, all within six miles," John Goodson wrote:—

. . . . . A fine Trade here in the Town consisting of many Trades-Men which are eight Merchants, Responsible Men, Housekeepers; twenty nine Shop keepers, great and small, three Brewers that send off many a Ton of good Malt Beer, three Maltsters in this Town also besides many that are in the Country, seven Master Bakers, some of them bake and send away Thousand Bushels in a Year of Bread and Flour, this is Truth; four master Butchers, nine Master Carpenters, . . . . . four brickmakers with brick Kills, nine Master Shoemakers, nine Master Taylors, two Pewterers, one Brasier, one Saddler, one Clock and Watch maker, one Potter, three Tallow Chandlers, two Sope-Makers, three Woolen-weavers that are entering upon the Woolen Manufactory in the Town besides several in the country; five miles off is a Town of Dutch and German People that have set up the Linnen Manufactory which weave and make many Hundred Yards of pure fine Linnen Cloath in a Year, . . . . . five Smiths, one Comb-Maker, one Tobacco Pipe Maker, three Dyers, one Joyner, one Cabinet Maker, one Rope Maker that makes ropes for Shipping, three Master Ship Carpenters, three Barbers, . . . . . three Plasterers, several victualling Houses or Ordinaries, . . . . . four Master Coopers that make abundance of Cask for the sea. . . . .

Such enumeration of hand workers suggests, in connection with about 700† dwelling houses in the city in 1700, two or three fire outbreaks (apart from chimney fires in wood burning flues) per annum at the opening of the eighteenth century, with little opportunity for great conflagration—brick buildings predominating in the more closely built sections. Protection against fire and loss by fire had not yet been in the world the business of town builders, and both had but emerged from their incipient stages.‡ In Europe, the "hand squirt" following the more ancient syringe, was just succeeded by the "hand engine." In Philadelphia, the fire extinguishing appliances were the leather bucket, the ladder, and the hook "for tearing down houses on fire." The earliest municipal ordinance towards preventing conflagration was one regulating the burning out of chimneys at certain times, and this was followed by provisions for chimney sweeping. So the flue was the first source of fire destruction looked after by the municipal authorities. Then, the first decade of the eighteenth century passed, the mayor informed his associated officials that:—

\* Evidently not the later distillation from bituminous shale, and possibly something of the character of colza oil.

† The actual number is uncertain. Seven hundred seems to be too small a growth from the progress reached in 1685, according to Turner's statement, but possibly temporary structures had been succeeded by those of a more permanent character; and if the past eighteen years of building produced 700 houses, the succeeding eighteen years did not result in more house building.

‡ But there had been enough fire outbreaks to alarm the people, and upon petition the Provincial legislature had, in 1696, made a law to prevent accidental fires in Philadelphia and New Castle. By this law the inhabitants were prohibited from cleansing their foul chimneys by burning them out (resorted to in wet weather); penalty forty shillings; and anyone smoking tobacco in the streets, day or night, was subject to a fine of ten pence. Every householder was directed to keep at his dwelling a swab twelve or fourteen feet long, and have a bucket or pail ready for fire, under penalty of ten shillings for disobedience. This prevention was further elaborated thus:—

*Anno regni Gulielmi III regis duodecimo (1701)*

AN ACT for preventing Accidents that happen by Fire in the Towns of Bristol, (formerly called Buckingham) Philadelphia, Germantown, Derby, Chester, New-Castle and Lewes, within this Government.

BE IT ENACTED by the Authority aforesaid, That if within ten Days after the Publication hereof, any Person or Persons, within any of the said Towns, set on fire their Chimnies to cleanse them, or shall suffer them, or any of them to be so foul as to take Fire and blaze out at the Top, and be duly convicted thereof, by two credible Persons of the Neighbourhood, before some one Justice of the Peace, such Person or Persons shall forfeit, for every such Offence, *Forty Shillings*.

And for the further securing of Houses, and Preventing of Fire from Destroying them in the said Towns, BE IT ENACTED by the Authority aforesaid, That every Owner or Tenant of every Dwelling-House within



He has frequently had in his Consideration the many Providences this City has Mett in that ffires that have so often happened have done So little Damage . . . . it is our Duty to Use all possible means to prevent and Extinguish ffires for the ffuture by providing of Bucketts, Hooks, Engines, &c.

The fines for "chimney ffiring" were made, December 8, 1718, by the city council, the revenue for a fire extinguishing service—a resident of the city, and previously member of the city council, having obtained an engine built in London in 1698.

This Councill having Agreed with Abraham Bickley for his ffire Engine At ye Sum of £50 . . . . . It is Order'd that the Treasurer pay ye S'd Sum out of ye Money Raised or to be Raised for chimney ffiring with all Expedition possible.

The money was "raised" and the engine paid for December 19, 1719, an engine house ordered, and George Claypool appointed to "play" the fire engine.

Then there followed:—

*Anno regni octavo Georgii regis.*

An Act for preventing Accidents that may happen by Fire.

BE IT ENACTED by Sir William Keith, Bart. Governor of the Province of *Pennsylvania*, &c. by and with the Advice and Consent of the Freemen of the said Province in General Assembly met, and by the Authority of the same, That if any Master, or other Person whatsoever, shall breame any Ship, Sloop or other Vessel with blazing Fire, or cause the same to be done in any of the Docks or at any of the Wharffs within the Limits of the City of *Philadelphia*, except in such Place or Places as shall from time to time be appointed for that Service by the Mayor and Commonalty of the said City: And if any Master, or other Person whatever, shall heat, or cause to be heated, with blazing Fire, any Pitch, Tar, Turpentine, Rosin, Oyl, Tallow, or any other sulphurous Matter, for the Use of any Ship or Vessel, other than such as shall be on the Stocks, except in such Places as shall be from time to time appointed as aforesaid; every such Master, or other Person whatsoever, doing or causing the same to be done, being convicted thereof by one or more credible Witnesses, before the Mayor and Recorder, or any two Magistrates of the said City, shall forfeit and pay the Sum of *Five Pounds* for every such Offence, together with Costs of Prosecution; one Half whereof for the Use of the Person or Persons who shall sue or prosecute for the same, and the other Half to be paid to the City-Treasurer for the Use of the said City.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That if any Master or other Person whatsoever, shall suffer any Fire to be kept (Candle excepted) after the Hour of Eight in the Evening, on board any Ship or other Vessel lying in any of the Docks, or at any of the Wharffs aforesaid, or in the Road before the said City, being convict thereof as aforesaid, shall, for every such Offence, forfeit and pay the Sum of *Ten Shillings*, for the Uses aforesaid.

PROVIDED ALWAYS, That it shall and may be lawful for the Mayor of the City of *Philadelphia* for the Time being, by Licence under his Hand, to permit the Master of any

the said Towns, shall, within ten Days after the Publication hereof, provide and keep in or by his or her House a Swab, at least fourteen Foot long, as also two Leather Buckets, within six Months at farthest after the Publication aforesaid, to be always ready against any Accidents of Fire, under the Penalty of *Ten Shillings* for every respective Neglect hereof, to be convicted as aforesaid

AND BE IT FURTHER ENACTED, That if any Person shall presume to smoke Tobacco in the Streets of *Philadelphia*, either by Day or Night, he shall forfeit, for every such Offence, *Twelve Pence*; all which said Fines shall be paid to the respective Justices of each Township, for the Use of the Town, and are to be employed for buying and providing Leather-Buckets, Hooks and other Instruments and Engines against Fires, for the publick Use of each Town respectively.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That no Person, within the Town of *Philadelphia*, after six months, next following the Publication hereof, presume to keep in their Houses, Shops or Ware-Houses more than six Pounds of Gun-Powder, at one time, unless it be forty Perches distant from any Dwelling House, under the Penalty of *Ten Pounds*, for every such Offence, to the Use aforesaid, to be convicted in Manner above express'd.

AND IT IS HEREBY FURTHER ENACTED, That it shall and may be lawful for any one or more Justices of the Town of *Philadelphia*, to procure or cause to be made, four or six good sufficient Hooks for pulling down Houses in the case of Fire (the said Justice or Justices taking to his or their Assistance two or more of the skilful Freeholders, for that Purpose.) The said Hooks to be paid for out of the Fines that shall or may accrue by this Act; or for Want thereof, out of any other Money that is or shall be raised in *Philadelphia* for the Use of said Town.



Vessel, lying in the Road of *Philadelphia* aforesaid, to use Fire on board such Ship or Vessel after the Hour of Eight aforesaid, in Case of Sickness, or any other extraordinary Occasion; anything in this Act to the Contrary notwithstanding.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That if any Person or Persons within the City of *Philadelphia*, or Towns of *Chester*, Bristol, Germantown, Darby or Chichester, shall set on Fire their Chimnies to cleanse them, or shall suffer them, or any of them to take Fire and blaze out at the Top, and be duly convicted thereof, by one credible Witness, before any one Justice of the Peace of the said City or Counties, such Person or Persons shall forfeit and pay, for every such Offence, *Twenty Shillings*, for the Use of the said City or Towns respectively where such Offence shall happen. And the first Paragraph of an Act of Assembly of this Province, imposing a fine of *Forty Shillings* upon every Person that shall fire or suffer their Chimnies to be fired, shall and is hereby declared to be repealed and made void.

AND WHEREAS much Mischief may happen by Shooting of Guns, throwing, casting and firing Squibs, Serpents, Rockets, and other Fire-Works within the City of *Philadelphia*, if not speedily prevented: BE IT THEREFORE ENACTED by the Authority aforesaid, That if any Person or Persons, of what Sex, Age, Degree or Quality soever, from and after Publication hereof, shall fire any Gun, or other Fire-Arms, or shall make, or cause to be made, or sell, or utter, or offer to expose to Sale any Squibs, Rockets, or other Fire-Works, or shall within the City of *Philadelphia*, without the Governor's special Licence for the same, of which Licence due Notice shall first be given to the Mayor of the said City, such Person or Persons so offending, and being thereof convicted before any one Justice of the Peace of the said City, either by Confession of the Party so offending, or by the View of any of the said Justices, or by the Oath or Affirmation of one or more Witnesses, shall, for every such Offence, forfeit and pay the Sum of *Five Shillings*; one Half to the Use of the Poor of the said City, and the other Half to the Use of him or them who shall prosecute and cause such Offender to be as aforesaid convicted: Which Forfeitures shall be levied by Distress and Sale of the Offenders Goods as aforesaid; and for want of such Distress, if the Offender refuse to pay the said Forfeiture, he shall be committed to the Prison for every such Offence, the Space of two Days, without Bail or Mainprize.

PROVIDED, That such Conviction be made within ten Days after such Offence committed. AND if such Offender be a Negroe or Indian Slave, she shall, instead of Imprisonment, be publicly whipp'd at the Discretion of the Magistrate.

What might happen was suggested in June, 1723, by the bursting of a carboy of nitric acid in the hold of a vessel at wharf. The vessel caught fire, but the flames were soon extinguished; one man, aiding, died from the suffocative fumes. There were 150 kegs of gunpowder on the ship at the same time.

With conflagration normally increasing, checks on fire outbreaks continued to be devised. An act of Assembly of February 6, 1730, was "for the better Prevention of Accidents that may happen by Fire in the City of Philadelphia by Bake-Houses and Coopers Shops," etc.

BE IT ENACTED by the Honourable Patrick Gordon, Esq; Lieutenant Governor of the Province of *Pennsylvania*, &c, by and with the Advice and Consent of the Representatives of the Freemen of the said Province in General Assembly met, and by the Authority of the same; That from and after the space of *Sixteen* Months next ensuing the Publication of this Act, no Person whatsoever within the said City, by himself, his Agents, Journeyman, or Servants, shall occupy the Trade of a Cooper or Baker, but in such Shops or Places, as are built in the Manner herein respectively directed and appointed, that is to say; That no Person after the Time aforesaid shall occupy the Trade of a Cooper, within the said City, but in a Shop or Place built of Brick or Stone, with a large Chimney in the same, the Cieling thereof plaistered, no Stairs nor Passage up the Loft within such Shop, and the Floor thereof to be of Earth, or laid with good Two-inch Oak Plank. And that no Person after the time aforesaid, within the said City, shall occupy the Trade of a Biscuit, or Soft-bread-Baker, but in a Bake-House built of Brick or Stone, and arched over with Brick, if the Place will admit thereof, or otherwise to be well ceiled with Plaistering; the Floor of the said Bake-House paved with Brick or Stone; the Crown of the Oven to be secured by carrying up the Foundation-Walls square, and filling the same with Gravel or Sand, at least Six Inches higher than the Top of the Oven; and the Chimney to be arched in the said Bake-House, without any Timber in or near adjoining to the same.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That if any Person or Persons, from and after the Time aforesaid, shall presume by themselves, their Agents, Journeymen or Servants, to occupy the Trade of a Cooper, or Biscuit or Soft-Bread Baker, or either of them within the City aforesaid, in any Shop or Place other than is above directed, enjoined and appointed; every Person so offending, for every Month he, she, or they shall occupy the Trades of Baker or Cooper, or either of them, in any Shop or Bake-House, contrary to the Directions of this Act, shall forfeit as herein after is provided; that is to say, for the first Offence, the Sum of *Twenty Shillings*; and for the second Offence, the Sum of *Thirty Shillings*; and so for the third, and every other Offence, the Sum of *Forty Shillings*; to be recovered upon Complaint made in the Name of the Clerk of the Market for the City of *Philadelphia*, or in the Name of any other Person who will give Information of the same, for and towards the Repair of Fire-Engines, and purchasing Leathern Buckets, before two Magistrates of the said City, whereof the Mayor for the time being to be one.

PROVIDED ALWAYS, That if any Person or Persons shall find him, her, or themselves aggrieved with any Judgment or Sentence of the said two Magistrates, it shall and may be lawful for the Person or Persons so aggrieved, to appeal to the next Court of Common Pleas, to be held for the City and County of *Philadelphia* aforesaid, whose Judgment therein shall be definitive.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That no Person whatsoever within the City aforesaid, from and after the *Tenth Day of May* next ensuing, shall keep, or stack any Hay within *One Hundred Feet* of any Dwelling House, or other Building (except it be in a Stable or other secure House) nor shall keep any greater Number of Faggots than *Two Hundred*, unless it be at a Distance of *One Hundred Feet* from any Dwelling House or other Building, under the Penalty of Ten Shillings for every Offence; which Penalties so accruing, shall be recovered, and applied in the Manner, and to the Use aforesaid, with Costs of Suit; and the Hay and Faggots so remaining against the Tenor of this Act, shall be liable to be removed, and in such Sort, Manner and Form, as any Nuisance may be by the Laws of Great-Britain, or this Province.

In April, 1730, a fire at Fishbourne's wharf, below Chestnut street, threatened a general conflagration; the citizens came to the rescue with the usual fervor of a time when every man, on occasion of fire, was a fireman, but the single engine, the buckets and the hooks were but slight hindrance to the flames, which, after burning all the stores on the wharf, with most of their contents, crossed King street and consumed three fine houses before their fury was spent. No fire of one-half the extent had hitherto occurred in the city, and the loss was estimated at about five thousand pounds. The fire possibilities of the eastern front of Philadelphia were thus enlarged, and some loss by theft was reported among the incidents. There was no insurance against direct or collateral fire loss. Personal marine underwriting was not unknown in the city, but personal underwriting against loss by fire was even in Europe rather a dim intimation than a known practice. The city government now authorized the purchase of three more engines, four hundred buckets, twenty ladders and twenty-five hooks. One-half of the buckets were purchased in England, and at least two of the engines. Franklin's Pennsylvania Gazette, in December, 1733, contained an article on the mode of extinguishing fires. An engine was built in the city in 1735 by Anthony Nicholls, but not found to be serviceable. January 3, 1736, fire extinction became an organized service by the establishment of the Union Fire Company; January 1, 1738, the Fellowship Fire Company was organized. March 18, 1740, north of the incorporated city, the Governor's Mill (grain grinding), run by the power of Cohocksink creek, took fire, it was supposed, from the wadding of a gun fired at wild pigeons, and it burned to the ground. About the same time Hamilton's buildings, on the river front, were burned. A fire happened in January, 1743, from boiling oil



to be used for painting, whereupon the Pennsylvania Gazette remarked: "Boiling Oil is a wild ungovernable Thing; such Business should never be done within Doors." In January, 1744, at a burning building near Christ church, Second street, "Axes were observed to be of great Use; for when Holes were made in the Shingling [of the roof] the Water from Engines and Buckets readily enter'd and did ten times the Service it could otherwise have done." (Pennsylvania Gazette.) The physical principles involved in this were not discussed by Franklin.

May 18, 1749, the Pennsylvania Gazette contained the following account of an enumeration of the dwelling houses of the city and vicinity:—

The dwelling houses of this city being lately numbered from a Motive of Curiosity, by twelve careful Persons\* who each undertook a Part there were found as follows viz.:

In the South Suburbs, . . . . .	150
In Dock Ward, . . . . .	245
In Walnut Ward, . . . . .	104
In South Ward, . . . . .	117
In Chestnut Ward, . . . . .	110
In Middle Ward, . . . . .	238
In High Street Ward, . . . . .	147
In North Ward, . . . . .	196
In Mulberry Ward, . . . . .	488
In Upper Delaware Ward, . . . . .	109
In Lower Delaware Ward, . . . . .	110
In the North Suburbs, . . . . .	62
Total, . . . . .	2076

Places of Worship and other Publick Buildings, Warehouses, Work-shops and other Out-houses not reckon'd.

Dr. Franklin indulged in some reflections upon the growth of the city from a wilderness, and this accomplished through one not a prince or princess, as in most other like cases. Unenumerated buildings, including stables, may have amounted to about one thousand. The conditions existed for the starting of about one fire per month besides the chimney burnings, with the average of conflagration in part contingent upon the work, methods and appliances of the fire extinguishing companies.

Seven such companies were in operation by January, 1752, and the character of the membership was evidence that they supplied a need, and were useful and effective—the seventh organization was the Britannia.

Then, without manifest preliminary incident or public movement thereunto, the following advertisement appeared in the Pennsylvania Gazette, February 18, 1752:—

All persons inclined to subscribe to the articles of insurance of houses from fire, in and near this city, are desired to appear at the Court House, where attendance will be given to take in their subscriptions every seventh day of the week, in the afternoon, until the 13th of April next, being the day appointed by the said articles for electing twelve Directors and a Treasurer.

So, somehow, the idea dawned in the English colonies of an insurance to reimburse loss of value by fire.

\* Dr. Mease gives these ten names: Mulberry ward, Dr. Franklin—Dock ward, Joseph Shippen—Lower Delaware, William Allen (Chief Justice)—Upper Delaware, Thomas Hopkinson—South ward and Southern suburbs, Edward Shippen—High street, Thomas Lawrence, Jun.—Walnut, William Humphreys—Chestnut, Joseph Turner—North ward and Northern suburbs, Dr. William Shippen—Middle ward, William Coleman. (31, 32.)



## CHAPTER II.

*The Position of Fire Insurance in 1752—The Amsterdam Fire Policy—The Amicable Contributors and the Friendly Society of London—John Smith and Joseph Saunders—The Organization of the Philadelphia Contributionship for the Insurance of Houses from Loss by Fire—Franklin's Invention of the Lightning Rod—First Office of the Contributionship—The Contributionship as a Partial Adaption from the Amicable Contributionship of London—The First Colonial Fire Insurance—Graduation of Rates of Deposit—The Seven Year Term Policy and Survey of 1752—The "Hand-in-Hand," Single and Double—The First Decade of the Contributionship—Abrogation of Dividends—Incorporation—The First Prohibited Fire Risk—Burning of the First Local Printing Type Foundry—Chimney Fires and Chimney Sweeping—The War of the Revolution and Depreciation of the Continental Currency—The War Ordeals of the Only Colonial Insurance Corporation—Fire Alarms and Means and Methods of Fire Defence considered by an Observer—The Street Shade Tree as a Fire Jeopardy and action thereon of the Philadelphia Contributionship and the General Assembly of Pennsylvania—Regulation of Policy Assignments—A Retrospect of Philadelphia Fire Loss during the First Century. (1752-1782.)*

WHEN the advertisement calling for subscribers to "the articles of insurance of houses from fire" was printed, such fire insurance with differences in method had been in progress in London for 85 years. The "office on the back side of the Royal Exchange" in 1680 offered insurance on houses at the rate of "six pence per pound rent for brick houses and twelve pence for timber," which insurance rested upon a guaranty fund of "£40,000 for the insuring of 10,000 houses with the addition of £20,000 for every 10,000 houses that shall be from time to time insured."\* In 1696 the Amicable Contributors established their office in London, with terms reduced from those of the earlier Friendly Society, the latter requiring a deposit for insuring during seven years,

\* "The first Fire-office in France was established in 1745; the first in Germany at Hanover in 1750. In Holland the system of individual writing of Fire Policies was in very general use early in the last century, and in the Insurance Ordinance of Amsterdam under date 1744 a form of policy is provided to be used in such cases." (The Insurance Cyclopædia, by Cornelius Walford: London, 1876, 3, 441.) The Amsterdam form of fire insurance contract was a *marine* insurance, applied to *terrestrial* subjects; *i. e.*, had the breadth of the maritime contract, and not the circumscription and confine of the fire policy, *viz.*—

WE the underwritten do insure you ——— or whom else it may concern, wholly, or partly, friend, or foe, *viz.* each for the sum here by us underwritten, on the structure, building, &c., called the ——— standing and situated ——— with the house and utensils, moreover the household furniture, goods, wares, and merchandises, of whatsoever quality or nature they may be, none excepted, as already are in, or on the aforesaid ——— or during the whole space of this insurance shall be brought therein (and the insured shall be at liberty at any time to house as many goods, and to deliver them out again, as he shall please) against fire, and all dangers of fire; moreover against all damage which on account of fire may happen, either by tempest, fire, wind, own fire, negligence and fault of our servants, or of neighbours, whether those nearest or further off; all external accidents and misfortunes, thought of and not thought of, in what manner soever the damage by fire might happen; for the space of twelve months, commencing with the ——— and ending the ——— both at twelve of the clock at noon: valuing specially and voluntarily the said structure; building, house, &c., with all its utensils, and household furniture, at the sum of ——— and the goods, wares, and merchandises, at the sum of ——— and thus together at the sum of ——— and *it shall not prejudice whether all this be worth, or has cost more or less.* And the insured, or whom else it may concern, in case of damage, or hurt, shall need to give no *proof* nor account of the value, as we know it is impossible

also annual premium and a contingent contribution according to losses occurring, to be paid within "25 days after Publication of the Rate."\* This was a combination of annual premium, assessment and deposit; the last a "pledge or caution for the performance of his covenants" by the Member. By the Amicable Contributionship it was set forth that—

The whole charge for insuring for seven years in this office is but 2s. per cent. For though every member pays down 12s. per cent. for seven years' Insurance of brick buildings, and double for Timber, yet at the end of the term 10s. is returned out of the 12s. for brick and double for Timber: and for a lesser term in proportion.

There is to be a yearly Dividend of Profits arising from Interest on Stock [*i. e.*, accumulated fund.]

In 1731 the rates of deposit were reduced, and the insurances (maximum sum £2,000 on one house) were restricted to three-fourths of the value of the building.

John Smith, of King Street, a member of the Hand-and-Hand Fire Company, and, as before said, one of the marine underwriters at the office of Joseph Saunders, made in his journal, August 26, 1748, this record: "In the evening rode to Stenton; took with me a plan of the damage done by the fire in London, and gave to the old gentleman."† [About 200 houses burned at Cornhill, March 25.] This fire appears to have directed the attention of this Philadelphia merchant and underwriter towards London fire insurance. (It would have been characteristic of his eminent father-in-law, referred to in the journal, to have had part in the inception of the idea.) Whether the advertisement which has been quoted was written in the office of Joseph Saunders, cannot now be said, but Joseph Saunders and John Smith coöperated in a plan to provide house fire insurance for Philadelphia which was first brought to public notice by the call for the meeting at the Court House. The project had in the meantime received the approval of Lieutenant Governor James Hamilton, and the most distinguished citizen of Philadelphia, Benjamin Franklin,‡ and these were the first subscribers

to be done; but the producing this policy shall suffice. And in case it should happen that the said structure, building, house, utensils, and household furniture, and the goods, wares, and merchandises, the whole, or part, are burnt and suffer damage, on that account, we do hereby promise punctually to pay and satisfy, without any exception, within the space of three months after the fire shall have happened, due notice having been given to us, each his whole sum underwritten, or else in proportion to the damages suffered, without deduction: provided that in case of a *partial loss* all that shall be found to be saved and preserved shall be deducted, after the deducting of the charges paid for the saving and preserving; and concerning which the insured shall be believed on his oath without our alleging anything against it, provided there be paid to us, in ready cash, for the consideration of this insurance ——— per hundred, under obligation and submission of our person and goods present and to come, renouncing, as persons of honor, all cavils and exceptions contrary to these presents; reciprocally submitting all differences, as well concerning the damages, as premiums, to the *decision* of the *chamber of insurances* and averages of this city, and chusing in case of our dwelling without the jurisdiction of the said city for domicilium citandi et executandi, the habitation of the secretary of the said Chamber for the time being.

Done at Amsterdam, &c.

\* ADVERTISEMENT:

THERE having happened a Fire on the 24th of last month, by which several Houses of the Friendly Society were burned, to the value of 965 pounds, these are to give notice to all persons of the said Society, that they are desired to pay at the office, Faulcon Court in Fleet street, their several proportions of said Loss, which comes to five shillings and one penny for every Hundred Pounds insured, before the 12th of August next.

LONDON, 6th of July, 1685.

† James Logan.

‡ Dr. Franklin, in an age when wood was the fuel, the tallow candle, liquid animal and vegetable fats the illuminants, the steel, flint, and sulphur-tipped wood the ignitive, invented the Pennsylvania fireplace for improved heat radiation, and soon after began his experimental tests as to the identity of lightning and electricity, or as to any possible similarity between the two. Noticing that "lightning" had a tendency to



to the articles of agreement (named, according to their source, Deed of Settlement,) prepared by John Smith.

The subscribers convening at the Court House, April 13, 1752, elected the following directors for the ensuing year:—

Benjamin Franklin,  
William Coleman,  
Philip Syng,  
Samuel Rhoads,  
Hugh Roberts,  
Israel Pemberton, Jr.,

John Mifflin,  
Joseph Morris,  
Joseph Fox,  
Jonathan Zane,  
William Griffiths,  
Amos Strettell.

John Mifflin and Amos Strettell were marine underwriters. John Smith was elected treasurer, and Joseph Saunders appointed clerk; that is to say, the latter was given more or less charge of the routine of the policy-issuing, though the treasurer was the executive officer.

The name given in the deed of settlement was The Philadelphia Contributionship for the Insurance of Houses from Loss by Fire, and the office of The Contributionship was opened at the house of Joseph Saunders, who advertised this notice:—

NOTICE is hereby given, That the INSURANCE OFFICE for Shiping and Houses is kept by Joseph Saunders at his House where Israel Pemberton Sen. lately lived near the Queen's Head in Water Street.

The Philadelphia Contributionship was an adaptation of rules and usages of the Amicable Contributionship or Hand-in-Hand Fire Office of London, the primary modification arising from recognition of the experience of the London office in earning interest on the amount contributed. In the London office the contributor put down so much per cent. for brick building with seven years' insurance, and double the sum for frame—two specific amounts in *each* case. In the Philadelphia office, if the deposit were 20s. per cent. for brick, 60s. would be the amount for frame of like use or occupation, with the same insurance term of seven years, and no other premiums. In each case the fund was managed for the profit or loss of the contributors. In both, the Primo, not an assessment, was the basis of the undertaking. In the London office, however, a distinction was shown between the "Contribuconshipp" and the premium, and 10s. per cent. in the case of brick buildings, and 20s. per cent. in the case of frames, as brick and frame buildings were defined, was made the limit of the contributor's liability for the term of seven years; outside of this, however, were 1s. 3d. per cent. for brick and 2s. 6d. for frame as absolute payment to the common fund. Interest earning of the funds was found by the Amicable to be adequate for losses and expenses after payment of annual dividends.

lodge on points or projections, he devised the *pointed* rod of iron to direct the electrical discharge, and proceeded to find the answer to the question which he propounded in 1749: "Would not these points probably draw the electrical fire silently out of the cloud before it came nigh enough to strike, and thereby secure us from that most sudden and terrific mischief?" He announced in his Poor Richard's Almanac, in 1753, his invention of the lightning rod, under the title How to Secure Houses, &c. from Lightning. " . . . . . The method is this: Provide a small iron rod (it may be made of the rod used by the nailers), but of such length that one end being 3 or 4 feet in the moist ground, the other may be 6 or 8 feet above the highest part of the building. To the upper end of the rod fasten about a foot of brass wire the size of a common knitting-needle sharpened to a fine point; the rod may be secured to the house by a few small staples. If the house or barn be long there may be a rod or point at each end and a middling wire along the ridge from one to the other. . . . . " So the first stage in the actual knowledge of electric conduction was attained





No. 40.

**T**HIS Instrument or Policy witnesseth, That *Susannah Delmon*  
of the City of Philadelphia

having become, and by these Presents becoming a Member of the Philadelphia Contributionship, for insuring Houses, &c. from Loss by Fire within the City of Philadelphia, and ten Miles round the same, in Pennsylvania, pursuant to a Deed of Settlement, bearing Date the 23<sup>rd</sup> Day of March 1752 And for and in Consideration of the Sum of *Three pounds fifteen shillings*

in Hand paid by the said *Susannah Delmon* to the Treasurer of the said Contributionship, being the Consideration for insuring the Sum of *Three hundred* Pounds unto the said *Susannah Delmon* her ~~his~~ Executors, Administrators and Assigns, upon *her House*

*at Kitchen, situate the North west Corner of Second & Sassafras Street where Dr. Peter High Swallow, the house being 18 foot front & 32 foot back, Piazza & Kitchen 12 by 24 foot, & the Wash house 16 by 18 foot, valuing the house at £225, the Piazza & Kitchen at £50 - Wash house at £25*

during the Term of Seven Years from the Date hereof: Which said Sum of *Three pounds fifteen shillings* is hereby declared to be deposited by the said *Susannah Delmon*

as a Pledge or Caution for the Performance of the Agreements comprised in the said Deed of Settlement on her Part from henceforth to be performed. Now we the Directors of the said Contributionship, for and in Consideration thereof, do hereby order, direct and appoint the Treasurer for the Time being of the said Contributionship, according to the said Deed of Settlement, to pay and satisfy unto the said *Susannah Delmon* her ~~his~~ Executors, Administrators, or Assigns, the Sum of *Three hundred*

*Pounds*, at the End of three Months next after the said *House, Kitchen &c* shall be burnt down or demolished by or by Reason or Means of Fire; and in like Manner shall pay the Sum of *Three hundred Pounds* so often as any *House, Kitchen &c* of the same Value and Goodness, built in the Room thereof, shall be burnt down or demolished by Reason or Means of Fire, during the Time this Policy remains in Force, and thereupon to endorse each and every such Payment on this present Policy. AND ALSO, That We the Directors aforesaid, do hereby further order, direct and appoint, that when and so often as the said *House, Kitchen &c*, or any *House, Kitchen &c*, built in the Room thereof, shall happen to be damaged or injured by or by Means of Fire; such Damages shall be made good, according to the Estimate thereof, or repaired and put into as good Condition as the same was or were before such Fire or Fires happening. And We likewise order, and direct the said Treasurer for the Time being of the said Contributionship, at the End of the said Term of Seven Years, to repay unto the said *Susannah Delmon* her ~~his~~ Executors, Administrators or Assigns, the said Money so deposited as aforesaid, or to much thereof as shall not in the mean Time be apply'd towards Losses, and the unavoidable Expence of the said Insurance Office, pursuant to the said Deed of Settlement.

**PROVIDED**, and it is hereby declared and agreed, That if the said Deposit Money shall not be demanded at this Insurance Office within the Space of One Year next after the Expiration of the said Term of Seven Years, then the Payment thereof shall cease, and the same shall be sunk and remain to the Benefit of the said Contributionship

**PROVIDED ALSO**. That if it should so happen, that the whole Stock of the said Contributionship should ever be insufficient fully to pay and discharge all the Losses sustain'd by the Members of this Contributionship, in such Case a just Average shall be made, and the Payment to be demanded in Virtue of this Policy shall be a Dividend of the said Stock in Proportion to the Sum insured, agreeable to the Tenor and true Intent of the said Deed of Settlement.

IN WITNESS whereof, We have hereunto set our Hands and Seals this *Fifteenth* Day of *July* in the *Twenty sixth* Year of the Reign of King *GEORGE the Second*, Annoq; Dom. 1752

Sealed and Delivered in the Presence of us

*Sam<sup>l</sup> Pemberton*  
*Jos. Saunders*

*Samuel Rhoads*

*Jos. Morris*

*William Griffins*



The Philadelphia Contributionship allowed the contributor a periodical interest on his deposit, which was part of the actual interest earning, after a *pro rata* charge for losses and expenses—settlement of balance made at the expiration of the policy. The policy drawn up was a valued one as to total loss, and open as to partial loss. During its term it paid if the building burned down, and continued to insure the building “built in the Room thereof.” Upon issue of each policy three directors were to sign it.

The first insurance was upon the dwelling-house (with kitchen, etc.,) of John Smith, the treasurer. The surveyors, Joseph Fox and Samuel Rhoads (directors), reported such house to be “on east side of King street, between Mulberry and Sassafras, 30 feet front, 40 feet deep, brick, 9 inch party walls, 3 storys in height, plaistered partitions,” etc. Proposal was for a policy of £500, and the surveyors named judged the “house and kitchen to be worth £1000,” and appended to their survey “£500 (@ 20s. per cent.).” *Fac simile* of Policy No. 40 is given.

Risks were graded at deposits of about nine-tenths of 1 per cent., and 1, 1¼, 1½, 2, 2½, and 3 per cent.—2 per cent. for wood-workers’ buildings, brick; 3 per cent. for frame buildings. At the end of the first year the average of the deposit was 1.16 per cent.; *i. e.*, deposit £473 4s. 5d. Pennsylvania currency, amount of policies £40,635.

Survey No. 52 was as follows:—

*Survey for Mutual Contributionship?*  
 A House in Morris's Alley where Benj<sup>l</sup> Barton dwells No 52  
 18 feet front 32 Deep 2 Story  
 9 Inch party walls £250 on the House  
 Boarded & Newel Stairs 10 on the Kitchen  
 plaistered partition  
 has been painted  
 Kitchen 1  
 8½ by 14 one Story  
 old Shingling  
 Samuel Rhoads  
 Joseph Fox

The problem of insuring “Goods and Merchandizes by Mutual Contributions” was not essayed by the new adventure, yet the seal, badge, and metal house mark established by the first meeting of the board of directors was not the single hands clasped of the Hand-in-Hand office for Houses (The Amicable), but the four hands clasping wrists of the Union, or Double Hand-in-Hand Fire Office (London), for ensuring Goods, etc.

The Contributionship of Philadelphia lagged rather than went forward. In the second year there was a loss of £145, as reported, by a fire on King or Water street, and this was discouraging. At the time appointed for the subsequent election of directors at the Court House, Hugh Roberts, “of sagacious memory,” alone attended, and Mr. Roberts being equal to the emergency made up a board of directors and notified the persons named. Joseph Saunders



served as clerk for but two years, and John Smith as treasurer four years. At the expiration of the first ten years, March, 1763, the sum insured was £25,415, and amount of deposits £368.

In March, 1763, the directors recommended the discontinuance of the dividend provision of the plan, assigning as a reason therefor trouble in calculating any small allotment of surplus due as profit upon expiration of policy; and as it had become manifest that security was to be furnished before any profit would be assumed to have accrued, the contributors at their general meeting in April following ordered:—

1. That the interest arising from the 'stock [premium fund] should be carried to one common account, to answer the contingent charges of the company and all losses and damages that might happen to the same.

2. That no part of the deposit money should be expended in repairing or paying any damage done by fire until the balance of the interest money as shall accrue to the time of the fire shall be first expended.

Such was the first enunciation in America of the great principle of insurance—accumulation. This principle put into practice began to build up the Contributionship as a permanency. Five years later, that is in 1768, the association was incorporated. Next year, 1769, the insurance on frame buildings at 3 per cent. deposit being found less remunerative than the average brick building at  $1\frac{1}{2}$  per cent., the deed of settlement was altered to prohibit insurance upon wooden buildings.

In April, 1775, the first printing type foundry in the locality, situated in Germantown, was burned. Blazing chimney continued to be cause of most fire alarms, and in further legislation on this an act of the Provincial Assembly of 1775, provided for the registering of the sweep's name and number, in a book to be kept by the clerk of the Philadelphia Contributionship for the "ensuring" of Houses from Loss by Fire—the certificate of the clerk being the authority of the sweep to "exercise chimney sweeping." Neglectful householders were subject to a penalty, and so were careless sweeps, in these terms:—

Every person whose Chimney shall take Fire and blaze out at the Top, not having been swept within one Calendar Month, shall forfeit and pay the Sum of *Twenty Shillings*; but if swept within that Time, and taking Fire and blazing out at the Top, the Person who swept the same, either by himself, his Servants or Negroes, shall forfeit and pay *Twenty Shillings*.

The war for independence having begun, the Council of Safety acting upon the recommendation of Congress, devised January 1, 1777, stringent measures to prevent depreciation of Continental currency, but mortgagees and other creditors declined or evaded settlement of their debtors' obligations in such currency. Samuel Sansom had been elected treasurer of the Contributionship in 1776, and for the "times that tried men's souls" and their estates, was the proper official. There was stimulus to fire insurance in 493 buildings burning in New York in 1776 and about 300 in August, 1778, but battles, military operations, and the disturbances of war tended to remove the foundations of security in the theatre of strife. The funds of the Contributionship had, as a rule, been increasing since 1763, and been largely invested in real estate mortgages, and losses could be paid in the currency of the time; but this was

scarcely an insurance, and special arrangements were made for the insurance "in specie." At a large meeting of citizens held November 22, 1780, it was agreed that the rate of Continental currency should be seventy-five dollars of currency to one of specie, but such agreement could not annul a strictly legal tender in liquidation of an indebtedness.

As to the ordeals of the Contributionship during the revolutionary period the following bit of tradition is suggestive:—

When public necessity authorized the payment of debts in paper money, it was not without difficulty and danger that the late treasurer could guard the institution from a second bankruptcy. The stock was out upon bond, and the refusal of the depreciated currency was in several instances accompanied with legal process, to prove the tender of the money; and once (when the exchange was 45 for one), with an attempt to pay the amount into the National Treasury, which was only eluded by the connivance of the State Treasurer, who kept himself out of the way. The Interest was taken as it was offered; but the principal was not demanded.

The fire alarm excited anxiety as well as the alarms of war, and early in 1780 fire outbreaks made evident deficiency in the organization and equipment of the fire companies, which caused a communication to appear in the *Pennsylvania Gazette*, January 12, of a character which entitles it to full citation, but the annexed abstract is sufficient to show the situation as discerned by an intelligent observer.

#### TO THE PUBLIC.

As several fires have lately happened in the city, it has naturally excited some attention and enquiry respecting the state of the fire companies, and the engines and other apparatus under their care; from whence it appears that the companies as well as the apparatus at the present time require considerable regulation and amendment.

With regard to the institutions here spoken of, many circumstances have occurred to impede their progress, such as the intervention of the enemy, and other temporary difficulties; but now that we are favoured with a good degree of tranquility and leisure, let us heartily exert ourselves for their re-establishment.

Fires most commonly happen in the winter season; several have already happened, and as the winter has not far elapsed, it is by no means improbable that others may yet happen; it is therefore to be wished, that the members of the different fire companies would be all punctual in the attendance of their next meetings, and revise and consider their former plans and proceedings, and enter into such new resolutions as may appear necessary; and by no means suffer any one of their engines to remain imperfect and useless, as is unhappily the case with several at this present time, by which means the late fire probably did much more damage than it otherwise would, and which, had the house been connected with a row of buildings, might probably have destroyed many more, to the great danger of the city. As to ladders, there are perhaps enough of the largest kind already; but it may be well to consider whether there might not be an advantage for each company to have one of a shorter length (having the lower end shod with iron pikes) that might be easily handled, and set to the first or second story; and also to be provided with saws, axes and ropes, which are generally wanted, and which, if put into the hands and care of suitable persons, may be of singular service. As there is a considerable complaint for want of fire buckets, and in case leather ones may not be readily obtained, perhaps wooden buckets, well secured with iron hoops, and lined inside with old linen fastened on with pitch or some good cement, might answer for some time. Legal compulsion for these purposes, although it might perhaps be justified upon the principles of public utility might not perhaps be advisable; yet was the Society for insuring Houses to enter into a resolution to insure no house whatever, unless the owner would previously engage to provide himself with a certain number of buckets, according to the house or houses he might insure, to be kept either in the houses insured, or under his own care, is a matter that may be both consistent and necessary, and worthy of their attention: And whilst we are on the subject, there is another hint which may become serviceable and general, if duly considered and properly tried; which is to dam or secure the water that may be thrown upon the upper floors, so as to prevent its descending down the stair-case, or by any other channel; for this purpose it will be necessary, in case of hurry, or where proper preparation has not been made, to lay down a folded rug, or anything of the sort



that can be procured, or to nail a narrow board at the head of the stair-case, of such length as may be necessary, and stuff or caulk the crevice with tow or rags, to prevent the escape of the water, and in case of holes or cracks in any part of the floor, to have them stuffed as tight as possible, by which means the water may be speedily raised several inches upon the floor, the advantages of which must be obvious to every one; something of this sort it is said was tried at the late fire, by which means the floors of several rooms were probably saved. But it would be well worth while for every house-owner or house-keeper to be provided with a kind of slider, 10 or 12 inches broad, properly fitted to slide in grooves or upright strips of wood at the heads of the stair-cases, and to such doors as may need it; to the under edge of the slider might be fastened a strip of thick woollen list, that it might more effectually fit the inequalities of the floor. The expense would be very trifling, and may probably be the means of saving the house, as well as the neighbourhood; for it is natural to suppose that if a floor is overflowed with water six or nine inches deep, the falling in even of a flaming roof would be unable to do any damage; nor would this plan be only servicable to prevent the lateral and descending progress of the fire, but the ascent also, for in case a lower room be in flames, and the floor next above it be covered with a good depth of water, it is easy to perceive that in whatever part of the ceiling, or floor above the fire may make a breach, through that breach the water will immediately pour, and as it were strike the enemy at his first appearance. It is to be hoped this hint will be particularly attended to by individuals, as well as by the several fire companies, who, if they should think proper, may appoint suitable persons of their company to attend to this particular matter. Another convenience, and which has been practiced with success abroad, is to have large strong commodious baskets, having a rope fastened to them, with one or two blocks or pullies accommodated to the end of a strong pole, so as to set against the house, by which means men, women and children, especially the sick and infirm, as well as goods, may be readily and safely got down, when there may not be a possibility of getting down within.

In cases of fire much needless damage is often done by rash, unskilful persons, and probably much benefit prevented for want of a sufficient number of suitable, active superintendents, for which reason it may be well for the different companies to appoint particular men, for such particular different purposes as may appear necessary, who might be distinguished by a certain badge, such as a cap or coat of a particular form or colour, which might produce that respect or deference which at present is too much wanting, and were some of them furnished with a good speaking-trumpet, the advantage would be great, as it is almost impossible in the general noise and confusion attendant on fires to hear the voice of a common man. . . . A reward granted for the first engine, ladder, &c. that should be taken to a fire, might be productive of good effect. . . .

CIVIS.

A fire jeopardy which did not come under the notice of Civis was now the subject of energetic action by the management of the Contributionship following out their deductions from the lessons of experience. It was a peculiarity of the general local fire hazard and an estimate of danger arising from few occurrences. The jeopardy was shade trees in front of buildings. The buildings were generally low structures; branches of trees extended over shingle roofs, and were liable to take fire in winter time from the blazing roof, and in summer and winter interfered with the application of water in fire extinguishment. It was but a slight jeopardy, but the directors, rather from apprehension than knowledge, viewed it as beyond the range of hazard it was the provision of the Contributionship to assume. The self same person will always judge very differently, according as he decides in the same case from the standpoint of insurer or from the standpoint of property owner seeking insurance. Accordingly, notice for the general meeting, April 9, 1781, to choose directors, etc., announced that "a proposal will be made to consider the propriety of Ensuring or Re-insuring\* Houses having Trees planted before them in the Street; also an Alteration of the Form of the Policy of Ensurance." This general

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\* Renewal of expired policies.



meeting of the contributors resolved—owners of tree shaded buildings being in the minority:—

That no Houses having a Tree or Trees planted before them shall be Insured or Reinsured.

That if any Person in future having a House Insured shall plant a Tree or Trees before it in the Street, if not removed in three Months from the time of planting he shall forfeit the benefit of the Insurance.

Then legislation was invoked against the dreadful street shade tree, and a section of an act thus provided for its extermination:—

AN ACT to *amend and render effectual an Act*, intituled "An Act for regulating Party Walls and Partition Fences in the City of *Philadelphia*," to declare divers new Streets and Ways . . . . . to be Highways, and also to declare Nuisances by Buildings within the said Streets removable, and for other Purposes therein mentioned.

Sec. XII. AND WHEREAS Trees growing in the public Streets, Lanes and Alleys of the said City of *Philadelphia*, do obstruct the Prospect and Passage through the same, and also disturb and disorder the Water Courses and Foot-ways by the Extending and Increase of the Roots thereof, and must tend to spread Fires when any break out within the said City: *Be it therefore enacted by the Authority aforesaid*, That all Trees now growing, or which shall hereafter grow or be planted within the Streets, Lanes and Alleys of this City, shall be removed out of the same by the said Commissioners; [for pitching, paving and cleansing the streets] and that if any Person or Persons shall obstruct or hinder the Removal of any Trees as aforesaid, every Person, so offending, shall respectively forfeit the Sum of *Ten Pounds*, to be recovered on Indictment, with Costs, in the City Court, if the Prosecution be commenced within six Months after the Offence, to the Use of the said Commissioners, to be by them applied to the paving and cleansing the Streets of the said City.

This was a law making of the General Assembly, April 15, 1782. There are more or less gleams of wisdom when a statute is repealed, and a few months later (September) the act for regulating party walls was supplemented, viz.:—

WHEREAS a considerable number of the inhabitants of the city of *Philadelphia* have, by their petition, set forth, that trees planted in the streets thereof conduce much to the health of the inhabitants, and are in other respects of great public utility: AND WHEREAS the said inhabitants pray, that so much of the Act intituled "An act to amend &c, An Act for regulating party walls and partition fences in the city of *Philadelphia*," &c, &c, and which directs the removal of all trees out of the streets, lanes and alleys of the said city, may be repealed.

Be it therefore enacted, and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania, in General Assembly met, and by the Authority of the same, That from and after the passing of this Act, the Twelfth section of the above recited Act, and every Matter and Thing therein contained, be, and the same are hereby repealed and made void.

A policy of fire insurance was in law doctrine unassignable in its *nature* (Park, 449); but by practice the interest therein could be transferred to another with the assent of the office. Provision for assignment was not contained in the terms of the policy of the Contributionship and the contributors had become remiss in their assignments. To put a stop to such abuse the following official notification was made in 1782:—

THE Directors of the *Philadelphia Contributionship* for insuring Houses from Loss by Fire, give this public Notice, that by the deed of settlement it is declared, "In case any member or members of this Society shall assign or transfer his, her or their Policies, such assignment or transfer shall be brought to the Office to be entered within four weeks next after such assignment or transfer; and on default thereof, the benefit of insurance shall be lost," which all concerned are required to take notice of.

By Order of the Directors,

CALEB CARMALT, Clerk.

One hundred years had now passed from the founding of Philadelphia, and there were about 6,000 dwelling houses in the city and districts and half as many more other buildings—three-fifths of the buildings, brick. About 35 fires per annum (exclusive of blazing chimneys) was the normal share of conflagration, attended to by 17 fire companies more or less effective for service with manual engines, buckets, ladders and other apparatus. Assuming \$300 as the average loss of the respective annual fires, conflagrations amounting to \$10,000 per annum would now be reached; and taking one-half of this amount as the average annual burning of Philadelphia in the preceding time, there would have been fire destroyed in the city and environs in all the century gone about \$500,000. The amount insured in the Contributionship was less than four hundred thousand pounds Pennsylvania currency, and the time had not yet quite come in the Colonies for the insurance of movables or goods, furniture, etc., against loss by fire.

## CHAPTER III.

*The Shade Tree Fire Hazard as a Prohibited Risk or Rated Risk—The Ultimate Decision of the Contributionship—Starting of a New Society for Insuring Houses from Loss by Fire—Organization of the Mutual Assurance Company—Stipulation as to Shade Trees and the Insurance Deposit therefor—Incorporation of the Mutual Assurance Company—The Mutual Assurance Company of New York—Propositions for changing Insurance of Houses—Conflagrations—Early Textile Manufacturing—Apprehensions of and Rewards for Discovery and Punishment of Incendiaries—A Question of Exposure to Smoke Houses—The Contributionship and the Burning Dutch Church—Reduction of Maximum Sum Insured—The Insurance Company of North America establishes Insurance against Risks arising from Fire—First American Fire Insurance upon Contents of Buildings—Premiums and Risk Classes of the Royal Exchange of London—The Risk Classes and Premiums of the Insurance Company of North America—Policy No. 73 (fire) of the Insurance Company of North America, and Policy of the Royal Exchange—Legislative and Municipal Restriction upon the Erection of Wooden Buildings—Occupants of Houses must keep Fire Buckets—Marks on Buildings—The Insurance Company of North America accepts Risks from all Sections of the United States—Loss on a Manufacturing Hazard—The Situation at the Dawning of the Nineteenth Century—Beginning of Philadelphia Perpetual Insurance—The Fire Business of the Insurance Company of North America to December 31, 1802—Introduction of Sectional Leather Hose in Fire Extinguishment—The Fire Risks of the Marine Offices—Proposals of the Philadelphia Insurance Company—Fire Insurance in the Phœnix, of Philadelphia—Alarms about Fires and Instructions to the City Watchmen—Agency of the Phœnix Fire Insurance Company of London—Rewards for Detection and Proof of Incendiarism, and Fire Origins—The Contributionship proposes to extend Maximum Insurance of Single Policy and Maximum Loan on Mortgage—Testimonial to Treasurer Sansom—The Philadelphia Society for the Protection of Movable Property in Time of Fire—Fire Insurance Competition—New Fire Insurance Proposals of the Insurance Company of North America—The Eagle Fire Insurance Company of New York—Israel Whelen explains the Benefits of Fire Insurance and the Advantages offered by the Phœnix, of London—The Insurance Company of North America appoints Agents in other States—President Inskeep criticises the Rates of the Phœnix, of London—Hostile Legislation against the Phœnix—A Law isolating the Distilling of Turpentine, Boiling of Oil, and Manufacture of Varnish—Building Progress of the City and Fire Increase therefrom—The African Insurance Company—A Hostile Statute expels the Phœnix, of London, from the State. (1783–1810.)*

TREATY of peace with Great Britain was signed in 1783, and preliminaries were in progress, or rather circumstances were tending, towards the establishment of the first insurance corporation to be created in the free, sovereign and independent States of America, but contingent upon whether the Contributionship, instead of excluding tree shaded buildings would yet accept such risks at additional deposit for the special danger—admitted by the protesting contributors as a possibility calling for some special provision.



A by-law, instituted by the Contributionship, was, however, approved by the contributors in general meeting April 12, 1784, which excluded the tree shaded buildings—a finality reached three years after the first concurrence in the proposition by the contributors at a general meeting. Thereupon the owners of the debarred properties began to organize for insurance, and announced by advertisement, for date of August 10, that “a New Society” “for Insuring Houses from Loss by Fire” was projected, viz:—

A great number of the citizens of Philadelphia, who are proprietors of houses in the city and its suburbs, many of whom now are or have been Members of the Philadelphia Contributionship for insuring Houses from Loss by Fire, have found it convenient and agreeable to them to have trees planted in the streets before their houses, which the said Contributionship have thought proper to prohibit by one of their bye-laws, although the same is expressly permitted by a law of the State, and notwithstanding application has been made by above forty of their Members to have the said bye-law repealed, who signified their willingness that an addition should be made to the premium of their insurance for the supposed risque attending trees in cases of fire, as is now done with respect to bake-houses, coopers, apothecaries and oil men’s shops, stores containing pitch, tar, brimstone, &c, which application has been rejected.

Wherefore a number of persons, desirous of having their houses insured from loss by fire, and seeing themselves precluded from the advantages of the present institution, have judged it necessary to form another society for the purpose aforesaid, and have entered into an agreement, that as soon as so many persons as have property in houses to the value of One Hundred Thousand Pounds collectively, shall have signed the said agreement, a meeting of the subscribers should be called, to form a plan for the management of the intended society.

That having no intention to prejudice the institution already established, and being only actuated by a desire to secure their own property, they further agreed, that if the bye-law above referred to shall be repealed within two months from the date of their agreement, which was the 5th of July, 1784, that then their said agreement should be void, or otherwise to be carried into execution.

Subscriptions to near the amount above prescribed having already been made, at a meeting of the subscribers it was unanimously agreed to lay their proceedings before the public, and to inform such as are disposed to join them that subscription papers are lodged with Mr. William Craig, in Second-street, and Mr. John Philips, at the corner of Front and Pine-streets.

A meeting of the subscribers will be held in September next, whereof each one will be informed by a particular notice.

The Contributionship did not recede from its position, and the meeting of the subscribers to the new society was held September 29, to form a plan and “elect officers.” The policy and general regulations of the Contributionship were adopted, with something of more formal official management. An insurance addition constituting Article XXXII of the deed of settlement, was as follows:—

That there be an Addition to the Deposit Money upon the Insurance of all Houses having Trees planted before them, and also for Trees planted in Yards near the Houses; which Addition shall be determined by the *Trustees*, and be in proportion to the Risque such Trees may occasion. All Trees planted near Houses shall be Trimmed every Fall, in such Manner as not to be higher than the Eaves of the Houses. And Trees planted after Insurance made must be reported to the Office, and the additional Deposit paid within twelve Months after they are planted, or the Deposit Money will be forfeited and the Insurance become Void.

Date of the deed of settlement was October 21, 1784.

The title adopted, was the Mutual Assurance Company for Insuring Houses from Loss by Fire; Plunket Fleeson was chosen president, and George Emlen, treasurer and secretary. In the Pennsylvania Gazette, of October 27, the following advertisement appeared:—

The Office of the Mutual Assurance Company for insuring Houses from Loss by Fire, Is kept by the subscriber, at his house in Quarry-street, between Moravian-alley and Third-street, where the members of the said Company and all others desirous of having their property insured, may apply.

Applications will also be received at the store of Mr. Matthew Clarkson, in Front-street, between Market and Arch-streets.

JOHN JENNINGS, Clerk.

Policy No. 1 was issued to Archibald McCall, upon his house at the north-east corner of Second and Union streets, October 21, for £500, bearing the signatures of three trustees, viz., Woodrop Jones, John Little and Benjamin Wynkoop. The company's mark—a green tree, cast in lead, fastened to a shield shaped board—was affixed to the front of the insured property.

For shade tree risk the additional deposit was about one-fourth of one per cent. of amount insured, equivalent to an annual premium of  $3\frac{6}{10}d$ . Pennsylvania currency per £100 insured, with interest at 6 per cent.

A bill in the general assembly entitled "An act for incorporating the Society, known by the name and stile of the Mutual Assurance Company, for insuring houses from loss by fire, to ratify and confirm the articles of agreement of the contributors, and to enable them to make suitable bye-laws for the better management and prosecution of their said design," was "enacted into a law" February 27, 1786.\*

Propositions for other alterations in insurance of houses were submitted by the directors to the members of the Contributionship at the general meeting held April 9, 1787. This year another bill became a law for regulating chimney sweepers. It was applicable "within the city of Philadelphia, the district of Southwark and township of the Northern Liberties in the county of Philadelphia."

March 24, 1790, about 11 P. M., the "calico" manufactory at the south-west corner of Market and Ninth streets took fire and was totally destroyed, "with a quantity of good machinery."† It was thought to have been fired by an

\* The Mutual Assurance Company of New York, deed of settlement of date of April 3, 1787, was, with improved risk discrimination, founded upon a method somewhat nearer to that of the Amicable Contributionship of London, than was that of the Philadelphia Contributionship or the Mutual Assurance Company of Philadelphia. It had seven grades of specified risks, the consideration for which, on a seven-year insurance, was a fixed premium, and a deposit in amount four times the premium sum. A fire, December 9, 1796, involving the company in losses on twenty buildings to the amount of \$27,124, the premiums and deposits were advanced 100 per cent. on "all houses and other buildings built of brick or stone, with party walls rising twelve inches above the roof, and covered with tiles, slate, copper, or other safe materials"; and a less proportionate increase on the higher risks. Originally the premium was three shillings per £100 of insurance for No. 1 risks, four shillings without the party wall, five shillings with the roof partly shingled; No. 7, buildings all wood, premium ten shillings. The advanced rates were, for No. 1, premium six shillings; for No. 7, premium eighteen shillings; and the advanced scale for premium and deposit together was, for No. 1, thirty shillings; No. 2, thirty-five shillings; No. 3, forty shillings; No. 4, forty-five shillings; No. 5, sixty shillings; No. 6, seventy-five shillings; No. 7, ninety shillings.

Article 23 of the deed of settlement prescribed: "That no Sugar House, Brew House, Bake House, Still House, Cooper's or Joiner's Shop, or other House or Shop wherein any of the hazardous trades or businesses followed are carried on, to wit: Chymists, Ship Chandlers, Tallow Chandlers, Stable Keepers, Tavern Keepers, Printers, Malt Driers, Oil or Colour Men, or which are used as Stores for the following hazardous goods, to wit: Hemp, Flax, Tallow, Pitch, Tar, Turpentine, Rosin, Gunpowder, Spirits of Turpentine, Shingles, Hay, Straw, Fodder of all kinds, and Corn unthrashed, shall be insured in this Society, but [except] on such terms only as shall be specially agreed upon by the directors."

The Baltimore Equitable Society, upon the plan and policy of the Contributionship, was organized in 1794.

† As a "new invented machine for spinning of wool and cotton," a spinning jenny, made by Christopher Tully, was exhibited in Philadelphia in 1775. It was for "spinning twenty-four threads of cotton or wool at one time by one person." (Bishop, 1, 383.) Arkwright had erected his first spinning frame, moved by



incendiary, and a reward was offered by the State assembly for the detection of the culprit.

There was much apprehension as to fires in 1791. May 9, about 10.30 P. M., flames broke out in a stable in the vicinity of Dock street, and "10 or 15 houses, shops and other buildings" were burned. Funds were collected for the relief of the sufferers. This fire, as usual, was attributed to an incendiary, and to subsequent ones a like origin was assigned. In November, Governor Mifflin, by proclamation, offered a reward of \$500 for the arrest of anyone convicted of incendiarism; pardon was offered to abettors in the crime if they would confess and indicate the others. An additional reward of \$500 was offered by the mayor and some citizens. Next year, a boy 12 years of age was tried and convicted of arson. A fire in the Pine street meeting house was traced to hot ashes left under a seat, and as evidence of active special ignition the Contributionship was debating the propriety of "insuring or re-insuring houses that have a smoak house communicating with any part of the building." In 1793 the Contributionship sustained its greatest loss up to this stage in its history, by the burning of the Dutch church which it had not long before insured for £2,000, which loss led to the reduction of maximum sum insured on single building.

Therewerethus sufficient developments of fire jeopardy to induce the incorporated President and Directors of the Insurance Company of North America early in 1794 to prepare to carry out, in addition to its marine writings, the charter authorization of "Insurances . . . upon Goods, Wares, or Merchandize, or other personal property . . . in Dwelling Houses, Warehouses, or Stores, or upon Buildings, against the Risque arising from Fire."

No convincing reason could be advanced why the insurance of the contents of a building was not as feasible as the insurance of the building itself, admitting the greater damage by water and loss by breakage, dispersal of goods in the confusion of fire, theft, etc. Such insurance was now in practice in some other countries. It had been established in England since 1710, beginning in a vague and crude scheme in 1704. Possibly it might be available in the United States, where charitable collections for sufferers by fire were not unknown, and where, as in England, these words of the Royal Exchange Assurance Company might apply: "The assuring from Loss or Damage by

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horse-power, at Nottingham (England), in 1769. A joint-stock company organized for establishing an American Manufactory of Woolens, Linens and Cottons, leased, March 21, 1775, the house of William Smith, at the south-west corner of Ninth and High streets, for three years, for use as a manufactory. In August, spinners of the city and county were informed that their services were wanted at the factory "where cotton, wool, flax, etc. are delivered out," and Christopher Marshall, one of the managers, wrote, under date of September 19: "At two I went to the Manufactory to consult some of the managers respecting the employment of three (it's said) complete spinners on the machine and cotton weavers." Oliver Evans, then about 22 years of age, and engaged in making card teeth by hand, invented a machine in 1777, designed to produce them in great numbers per minute. A plan for pricking the leather and setting the teeth was soon after devised by him. In 1778, an act of Assembly was passed prohibiting exportation of manufacturing machines for two years. John Hague received from the Assembly £100 for "introducing into this State useful machines for carding cotton." Throughout the period of the revolutionary war Philadelphia was supplied with native cotton at two shillings sterling a pound, in sufficient quantities for home consumption.

The operations at Market and Ninth streets were continued by the company for a few years, and the stock rose in price from £10 paid in to £17 6s. 6d., followed by a decline in the business and termination of the company. The manufacturing was, however, resumed by Tench Coxe and others in 1787, and was proceeding when the fire of March 24, 1790, occurred.



Fire tends to the Preservation of many Families from that Poverty and Ruin which such a Calamity might otherwise expose them to."

April 28, 1794, the directors of the Insurance Company of North America appointed a committee of three—John Swanwick, Samuel Blodget, Jr., John Fry, Jr.—to form or consider a plan for fire insurance, and there was not an American idea on the subject existing applicable to the Insurance Company of North America as organizing the security in itself, and not organizing the policyholders into their own security. The committee in their considerations followed the precedents set by the joint stock offices of London, and what the mutual Contributors of London were to the founders of the Philadelphia Contributionship, the Royal Exchange for Assuring Houses and other Buildings, Goods, Wares, and Merchandizes from Loss or Damage by Fire was to the committee formulating the fire insurance of the Insurance Company of North America.\*

The plan was favorably reported by the committee, June 11, and being adopted, the directors took action upon the question whether the company should "insure the full sum the Goods in Store are valued at, or two-thirds of said Value," and by a vote of 11 to 1 the decision was in favor of insuring the full sum. Proposals for Insurance were completed October 13, and the form of policy November 10.†

So began in the United States the insurance of merchandise and furniture fire hazards. There were two divisions of the general fire peril as assumed by the company, the basis being as buildings were *wholly* or *partly* brick or stone "within the City of Philadelphia and the Northern Liberties," frame buildings being at first excluded for a short time, also contents therein. No. I, Common Insurances: Brick or Stone Houses, or Stores and Furniture, or Merchandize therein, not including "Extra Hazardous" articles, "for sums not exceeding 8,000 dollars at and after the rate of 30 cents for every hundred dollars—for sums not exceeding 16,000 dollars at and after the rate of 45 cents for every hundred dollars—for sums not exceeding 25,000 dollars at and after the rate of 60 cents for every hundred dollars."—No. II, or hazards of the second class: Houses or Stores of which the walls are not wholly of Brick or Stone, and Furniture or Merchandize therein, including extra hazardous goods as Pitch,

\* Previous to this the Table of Annual Premiums charged by the Royal Exchange was:—

*No. 1. Common Assurances.*

Any Sum above $\left\{ \begin{array}{l} 100l. \\ 1000l. \\ 2000l. \end{array} \right\}$	Not exceeding $\left\{ \begin{array}{l} 1000l. \\ 2000l. \\ 3000l. \end{array} \right\}$	at 2s. per cent. per annum.	
		at 2s. 6d. " " " "	

*No. 2. Hazardous Assurances.*

Any Sum above $\left\{ \begin{array}{l} 100l. \\ 1000l. \\ 2000 \end{array} \right\}$	Not exceeding $\left\{ \begin{array}{l} 1000l. \\ 2000 \\ 3000 \end{array} \right\}$	at 3s. per cent. per annum.	
		at 4s. " " " "	
		at 5s. " " " "	

*No. 3. Double Hazardous Assurances.*

Any Sum above $\left\{ \begin{array}{l} 100l. \\ 1000l. \\ 2000 \end{array} \right\}$	Not exceeding $\left\{ \begin{array}{l} 1000l. \\ 2000l. \\ 3000l. \end{array} \right\}$	at 5s. per cent. per annum.	
		at 7s. 6d. " " " "	

For common assurances not exceeding 1000*l.* the rate for seven years was twelve shillings per cent., and not exceeding 2000*l.* fourteen shillings per cent.

This kind of discrimination in rates began or appeared in England in 1721.

† Montgomery: Hist. Ins. Co. N. A., 61.

Tar, Turpentine, Wax, Hemp, Oil, Tallow and Spiritous Liquors, "for sums not exceeding 8,000 dollars at and after the rate of 75 cents for every hundred dollars."

In a general way such rates provided for double the contingencies of the London premiums. No insurance was to be taken for less than one year—seven year insurance for amount of 6 annual premiums, three year insurance  $2\frac{2}{3}$  annual premiums. Neighborhood of all frame building to non-frame building was a subject of special insurance, that is as to brick or stone structures having such exposure; so also were other of the higher hazards as inferred. It was announced to the public that: "It is expected a little experience may authorize the Company to extend insurance from Fire to other Cities."

The first policy was issued December 10 to William Beynroth, No. 21 High street, \$8,000 for three years on German Dry Goods for \$66, viz.:—

Drs 8,000 at 30 cents $\text{p}$ ann., . . . . .	72
Abate, . . . . .	8
	— 64
Badge & Policy, . . . . .	2
	— 66*

The badge was, as adopted December 8, "a wavy star of six points, cast in lead and mounted on a wooden shield."

Policy No. 6 was for \$25,000 for one year at rate of 60 cents, locality 136 High street, Dwelling House and Store; \$23,000 were upon Linen, Woolen and Silk Goods and \$2,000 on Furniture and Wearing Apparel.

There was little readiness on the part of even business men to accept the new fire insurance; people apprehended that their houses were in danger, but house fire insurance was otherwise provided for, and with issue of few policies per month as incidents of the company's operations (though March 9, 1795, it was adopted to insure brick or stone houses within ten miles of the city in Pennsylvania), policy No. 73 was not reached until November 4, 1795. This is here printed to show the character of the company's first fire policy.

By the President and Directors of the Insurance Company of North America  
No. 73.

[L.S.] WHEREAS *Joseph Ricardo, of Philadelphia, Merchant*, hath paid to the President and Directors of the Insurance Company of North America *Twelve Dollars for Insurance of Four Thousand Dollars on Dry Goods contained in the Cellar and on the Ground floor of the three story Brick Dwelling House Number Fifty-three (North) Situate on the East Side of Third Street from the River Delaware between High and Mulberry Streets in the city of Philadelphia*, from loss or Damage by Fire whilst the said *Dry Goods* shall be and remain in the house aforesaid for *One Year* from this *Fourth Day of November One Thousand seven hundred and ninety Five*. KNOW ALL MEN BY THESE PRESENTS, that in Consideration thereof the Capital Stock, Estate and Securities of the said Corporation shall be subject to pay unto the said *Joseph Ricardo, his Heirs, Executors, Administrators or Assigns* the Entire Sum of *Four Thousand Dollars*, and so shall continue, remain and be subject as aforesaid from time to time to be computed from the *Fourth Day of November* in every year for so long time as the said *Joseph Ricardo* shall well and truly pay, or cause to be paid the sum of *Twelve Dollars* to the President and Directors of the said Insurance Company of North America on or before the *Fourth Day of November* which shall be in each succeeding year, and the said Corporation shall agree thereto by accepting the same, which said Loss or Damage shall be paid or indemnified

\* Hist. Ins. Co. N. A., 62 etc.



in manner aforesaid within thirty days after proof of loss; and if any dispute shall arise respecting the same between the Corporation and the ASSURED, such difference shall be submitted to the judgment and determination of Arbitrators indifferently chosen, whose award in writing shall be conclusive and binding to all parties.

PROVIDED always, nevertheless, and it is hereby declared to be the true intent and meaning of this Policy, that the said Stock, Estate and Securities of the said Corporation shall not be subject or liable to pay, or make good to the Assured any loss or Damage by Fire which shall happen by Invasion, Foreign Enemy, Civil Commotion, or any Military or usurped powers whatever; And provided also, that this Policy shall not take effect, or be binding to the said Corporation in case the said Assured shall have already made, or shall hereafter make any other Assurance upon the Goods aforesaid, unless the same shall be allowed of and specified on the back of this Policy; Or if the House above mentioned containing the goods of the said *Joseph Ricardo* shall, at the time when any such fire shall happen, be in whole or in part occupied by any person who shall use or exercise therein the Trade of a Carpenter; Joiner; Cooper; Tavern Keeper or Inn holder; Stable Keeper; Bread or Biscuit Baker; Sugar Baker; Ship Chandler; Boat Builder; Malt Drier; Brewer; Tallow Chandler; Apothecary; Chemist; Oil and Colourman; China; Glass or Earthen Ware Seller; or shall be made use of for the Storing or Keeping of Hemp, Flax, Tallow, Pitch, Tar, Turpentine, Rosin, Salt Petre, Sulphur, Gun Powder, Spirits of Turpentine, Shingles, Hay, Straw, Fodder of any kind, Corn unthreshed, Oil, Wax, Distilled Spirits . . . . . but that in all, or any of the said Cases, this Policy, and every Clause, article and Thing therein contained shall be void and of none effect; otherwise it shall remain in full force and Virtue.

IN WITNESS whereof the said Corporation have caused their Common Seal to be hereunto affixed on the *Fourth* Day of *November* in the Year of our Lord One thousand seven hundred and *ninety-five*.

N. B. This Policy to be of no force if assigned, unless such assignment be allowed by an Entry thereof in the Books of the Company.

*It is understood that the goods above insured are the Property of the Assured, and not held on Assignment.\**

4000. Four thousand Dollars

J. M. NESBITT, Presid't.

Dry Goods Drs. 4000, a 30 Cts, Drs. 12.

Fires in wooden buildings had shown their danger, and largely as a precaution against the spread of flames a legislative enactment of April 18, 1794, empowered the city corporation to forbid by ordinance the erection of any wooden mansion, house, shop, warehouse, store, carriage house or stable within such sections of the city as it would be judged proper to exclude such buildings from. Such a provision met with energetic public antagonism. Against many remonstrances a prohibitory ordinance was passed by city council,

\* The policy of the Corporation of the Royal Exchange Assurance of Houses and Goods from Fire adopted some years previous to the organization of the Insurance Company of North America, was as follows:—

This present Instrument or Policy of Assurance witnesseth That Whereas ——— agreed to pay into the Treasury of the Corporation of the Royal Exchange Assurance, at their office on the Royal Exchange, London for the assurance of ——— from Loss or Damage by Fire, NOW KNOW ALL MEN BY THESE PRESENTS, That the Capital Stock, Estate, and Securities of the said Corporation shall be subject to and liable to pay, make good and satisfy unto the said Assured, ——— Heirs, Executors, or Administrators, any Loss or Damage which shall or may happen by Fire to the said Goods ——— aforesaid (except such Goods as Hemp, Flax, Tallow, Pitch, Tar, Turpentine, Glass, China, and Earthenwares, Writings, Books of Accounts, Notes, Bills, Bonds, Tallies, Ready Money, Jewels, Plate, Pictures, Gunpowder, Hay, Straw, and Corn unthreshed) within the space of twelve Calendar Months from the Day of the Date of this Instrument or Policy of Assurance not Exceeding the sum of ———; and shall so continue, remain, and be subject and liable, as aforesaid, from Year to Year, to be Computed from the ——— Day of ——— in Every Year, for so long Time as the said Assured shall well and truly pay, or Cause to be paid, the Sum of ——— into the Treasury of the said Corporation, on or before the ——— Day of ——— which shall be in Each succeeding Year; and the said Corporation shall agree thereto by accepting and receiving the same; which said Loss or Damage shall be paid in Money immediately after the same shall be settled and adjusted; or otherwise, if the said Loss or Damage shall not be adjusted, settled and paid within Sixty Days after Notice thereof shall be given to the said Corporation, by the said Assured, that then the said Corporation, their Officers, Workmen, or Assigns, shall, at the Charge of the said Corporation, at the End and Expiration of the said Sixty Days, provide and supply the said Assured with the like Quantity of Goods of the same Sort and Kind, and of Equal Value and Goodness with those burnt or damaged by Fire, PROVIDED ALWAYS, NEVERTHELESS, and it is hereby declared to be the true Intent and Meaning of this Deed or Policy, That the said Stock, Estate, and Securities of the said Corporation shall not be subject or liable to pay or make



June 6, 1795, forbidding the erection of such wooden buildings in the more thickly settled parts of the city as designated, but enforcement of the penalties was successfully resisted at law, and it was not until 1799 that such prohibition became established. Another act of assembly for the purpose of authorizing the city corporation in enforcing requisite means for extinguishing fires was of the date of April 18, 1795. It declared that—

I. The mayor, recorder, aldermen, and common councilmen of the city of Philadelphia, in common council assembled, shall have full power and authority to make and establish any law, ordinance or regulation, to oblige the owners and occupiers of houses in the said city to provide, and keep in repair, any number of leathern buckets, not exceeding six, to be used only in extinguishing fires.

The badge of a star was shortly disused by the Insurance Company of North America, there being "December 26, 1796, the adoption of an eagle rising from a rock, as an alternate with the star, 'the insured to have the option of the badges.'" A star badge placed on a building in South Front street appertained to policy No. 4, which "covered \$8,000 on wines and teas for one year" in the building.\*

The area "within ten miles from the city" did not long circumscribe the acceptance of risks. Early in 1796 it was agreed to accept the various descriptions of risk from any part of the United States, "if premiums adequate to the risk, in the opinion of the President and the Committee of the Week, be paid for the same." For risks not situated in a principal town or city, lines were reduced and rates somewhat augmented. In 1796 the company insured \$288,250 on risks in western Pennsylvania, New Jersey, New York, Massachusetts, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia. February 27, 1798, an application for a fire agency of the company at Charleston, S. C., was declined. Previous to this, February 7, 1798, a cotton manufactory† near Wilmington, Del., insured in the company, was burned. Wooden buildings as well as manufactories were now written by the company. April 19, the same year, there was a total loss on a risk in Maiden lane, New York city—reward of \$1,000 offered "for discovering and prosecuting" the supposed incendiary.

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good to the Assured any Loss or Damage by Fire, which shall happen by any Invasion, Foreign Enemy, or any Military or usurped Power whatsoever; PROVIDED ALSO, That this Deed or Policy shall not take Place or be binding to the said Corporation until the Premium for one Year is paid, or in case the said Assured shall have already made or shall hereafter make any other Assurance upon the Goods aforesaid, unless the same shall be allowed of and so specified upon the Back of this Policy; Or if the said — at the time when any such Fire shall happen shall be in the Possession of, or let to any Person who shall use or Exercise therein the Trade of a Sugar-Baker, Apothecary, Chymist, Colour-man, Distiller, Bread, or Biscuit-baker, Ship or Tallow Chandler, Stable-keeper, Inn-holder, or Maltster, or shall be made use of for the stowing or keeping of Hemp, Flax, Tallow, Pitch, Tar, or Turpentine; but that in all or any of the said Cases these Presents, and every Clause, Article and Thing herein Contained, shall cease, determine, and be utterly void and of none Effect, or otherwise shall remain in full Force and Virtue.

In Witness whereof the said Corporation have caused their Common Seal to be hereunto affixed the — Day of — in the — Year of the Reign of our Sovereign Lord — by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, &c., and in the year of our Lord One thousand — hundred —

N. B.—This Policy to be of no Force, if assigned, unless such Assignment be allowed by an Entry thereof on the Books of the Company.

\* Hist. Ins. Co. N. A., 63.

† "The first cotton mill in Delaware was about this time (1795) put in operation by Jacob Broome at Wilmington, in the Old Academy on Market street. It was afterwards removed to the Brandywine to be driven by water, but was soon burned down." (Bishop 2, 63.) Cylinder carding machines were in use here.

The nineteenth century dawned with about 11,000 dwelling houses in the city of Philadelphia, and approximately 5,000 other buildings, including those devoted to trade and various manufactures which were commensurate with the time and the proportions of the city and the shipping of the port.

The specific policy term for insuring houses had been of varied practice in London, up to the term of thirty-one years. A scheme of the city of London to make such insurance, which was relinquished in 1683 after the issue of some policies, included a proposal to insure "for ever"; and with such insurance a risk at the rate of 3*s.* 9*d.* per cent. for one year would be £3 6*s.* 8*d.* for one hundred years, and £4 for ever.\* The seven-year house insurance of Philadelphia had become but a formal renewal of continuous deposit every seven years, and the opinion had grown that a deposit which was sufficient for seven years would be sufficient for an indefinite time, it being solely a question of the interest earning of a given sum. An annual premium in perpetuity could be provided by a sum proportioned to a given rate of interest earning. Therefore, taking 6 per cent. per annum as the standard for interest earning,  $\frac{100}{6} = 16.666$ , and  $16.666 \times .06 = 1.00$ ; therefore a continuous deposit of \$1 was equivalent to 6 cents per annum for continuous years, \$16.666 being the present value of an annuity of \$1 without time limit, rate of interest being assumed at 6 per cent. per annum.

The Mutual Assurance Company, which had become generally known as the Green Tree insurance company, the Contributionship being styled the Hand-in-Hand, determined upon ending the seven year break in the insurance, and by virtue of an amendment to the deed of settlement adopted in 1801, the policy could continue in force so long as the deposit should remain with the company; such deposit being reclaimable by the depositor, at his option, within six months after the expiration of each seven years in succession, without deduction, excepting the fees of the office, unless the funds had been lessened by losses, in which case a just proportion of the deposit was to be returned, to be determined by the ratio of interest money to losses.† The first policy so perpetual of the Mutual Assurance Company was issued September 10, 1801, to Jeremiah Sullivan, upon his three-story house, Mulberry street, north side, between Front and Second streets, "as per survey No. 408." Policy was written in the sum of \$1,000; deposit 2½ per cent.

As has been shown, there were three offices where fire insurance could be obtained for houses, one of the three insuring also contents of buildings. By December 31, 1802, the Insurance Company of North America received \$81,253.76 for fire premiums, and paid \$30,116.59 for fire losses.

In 1803, a fire breaking out on Sansom street damaging eight new houses, the idea of supplying the Newsham air-chamber hand engine with water by sectional leather hose, instead of buckets, occurred,—whether suggested by the earlier uses of such conduits, recent and ancient, or born of the occasion,

\* Walford: *The Insurance Cyclopædia*, 3, 451.

† The original perpetual insurance of the Mutual Assurance Society of Virginia, organized in 1794, was an entirely different plan.

is not known. Distinctive hose companies were thereupon formed to coöperate with the engine companies; the first, the Philadelphia Hose Company, was organized December 15, 1803. It was found, on trial, that where it had taken fifteen minutes to fill the engine cistern with water by means of buckets passed from hand to hand of persons in line, it could be done by the connected hose stream in a minute and a half. The introduction of hose in fire extinguishment was, however, first made effectually practicable by the introduction of the Schuylkill water, which afforded the requisite pressure and flow when the hose was attached to the fire plug in the street.

It was current opinion in the earliest years of the nineteenth century that the "insurances offices" of Philadelphia—meaning by such offices the marine insurance companies solely—practiced all departments of insurance. Of the early writing of fire risks by three other marine companies than the Insurance Company of North America, there is some evidence, but not one of the three established a fire branch in its business thereby.

Before the incorporation of the Philadelphia Insurance Company it was proposed to extend the insurance to land fire risks, and, January 11, 1804, the following Fire Insurance Proposals were published:—

#### PROPOSALS.

*By the Philadelphia Ins. Co.*

Whereas by the articles of association of the Philad'a Ins. Co., the President and Directors are authorized to extend their assurance to goods, wares and merchandize, or other personal property in dwelling houses or stores, and buildings *against the risk arising from fire*, the President and Directors of the said Insurance Company, offer the following table of rates and terms:—

#### TABLE

##### *Of Rates of Premiums to be paid for Assurance against loss by Fire.*

No. 1.—Upon Common Risques, or hazard, of the first class, within the city of Philad'a, the Northern and Southern Liberties, and their vicinity—For sums not exceeding \$10,000 at and after the rate—

Of 30 cents for every 100 dols for 1 year	Of 16 cents for every 100 dols for 3 mos
22	12½
21	7½
19	4

No. 2. Upon Hazard of the Second Class—Houses or Stores of which the walls are not wholly of brick or stone;—

Furniture or merchandize, including extra hazardous goods, as pitch, tar, turpentine, wax, hemp, oil, tallow, spiritous liquors contained in houses or stores of which the walls are not wholly of brick or stone;—

The last recited extra hazardous articles, in any building whatsoever;

Ships whilst building;—the property therein contained of carpenters, joiners or coopers;—The property of tavern keepers or inn-holders, stablekeepers, bakers, ship chandlers, boat builders, malt driers, brewers, tallow chandlers, sugar bakers, apothecaries, chemists, distillers, printers, oil and colourmen, China, glass and earthenware sellers, mills and machinery, porcelain, glass and pottery wares in trade;—

For sums not exceeding \$10,000 at and after the rate of

75 cents for every 100 dols for 1 year	40 cents for every 100 dols for 3 mos
55	32
52	19
48	4

N. B. As the neighborhood of frame buildings or other circumstances may render a risk ineligible, which is within the letter of these proposals, the company reserve a right to increase the premium if the parties can agree, or if not to reject such an assurance at pleasure.



The sum to be insured at their standard premium, on any one risk, shall not exceed 10,000 dolls. but it is to be discretionary with the board to take as much less on any designated risk as they deem prudent. In no case insurance shall be made for more than two thirds of the value of goods in store.

In cases of insurance on goods loose in a shop or store, there shall be a fixed general valuation on the whole merchandize in the shop or warehouse, of which the company will only insure one moiety or two thirds at their discretion. And the owner thereof shall exhibit to the company, quarterly, an inventory and appraisement or valuation of said goods.

A badge of moderate cost shall be fixed on every store, warehouse or shop insured, at the expence of the insured, but to be procured and put up by the officer of the company.

#### *Conditions.*

1st. A written application must be left at the Company's office, stating the sum desired to be insured, by whom, a description of the kind of property, whether buildings or goods, if goods, the kind and where and how situate. When household goods are intended to be insured, application should specify as follows:—

On household furniture and linen.....Dollars;  
On wearing apparel.....  
On plate .....  
On China and glass.....  
On printed books .....  
On liquors .....

2nd. The premium must be paid when the order is given and accepted, the insurance to commence the instance it is paid, and continue in force so long as the payment shall be made at the office, before two o'clock P. M. on the day when each revolution of the term shall be complete; or if that day should happen on a Sunday; or the 4th of July, or any other holiday kept at the office, then on the day preceding.

3rd. If any other insurance be existing on the same property, notice thereof must be given with the order, otherwise the policy will be void.

4th. Goods held in trust or on commission, must be declared to be so held, otherwise the policy will not cover such property.

5th. This company will not be accountable for any loss or damage caused by any foreign invasion, or by any military or usurped force, or by reason of any civil commotion.

6th. Bills of Exchange, Bonds, Securities, Title Deeds, Ready Money, and Bank and other Promissory Notes, are not included under any insurance. Paintings, Medals, Jewels, Gems, antique Curiosities, and mirrors, above 50 dollars each, may be insured by special agreement.

7th. Persons choosing to insure for seven years, shall be allowed one year's Premium by way of discount, and one third of a year's premium upon a triennial insurance.

8th. When any loss by fire is sustained on property insured at this office, the sufferer shall, in thirty days, furnish the best documents he is able, of the value of the goods damaged or destroyed; this ascertained, the loss within the sum insured shall be paid without deduction, in thirty days after proof thereof.

Published by order of the Board of Directors of the Philadelphia Insurance Company.  
SAMUEL W. FISHER, *President*.

The following order indicates the practice of fire insurance by the Phoenix Insurance Company coeval with its issue of marine policies:—

Philadelphia August the 20th, 1804.

Phoenix Ins. Co. of Philada.

Effect insurance against Fire in the Sum of Fifteen hundred, . . . Dollars for one year for account of the Estate of the late Doct'r Enoch Edwards, on the dwelling House frame Building, Kitchens and Wash House—The Dwelling House is Two Stories high 40 feet front & 27 feet deep. The first Story of Stone, the Second of Wood & Rough Cast. The Frame building joins the House—is of one Story. One Kitchen joins the last mentioned & is a frame—the other is of Stone & is connected with the other. The three last mentioned buildings are each 13 by 18 feet. The Wash House is a one Story frame 20x26 feet and joins the Kitchens.

Effect also against Fire in the Sum of Five hundred Dollars, for one year, on same account, on a Stone Barn, Two Stories high occupied as Stable, Carriage House & Granary 53x19 feet—And on a Frame building adjoining said Barn two Stories high 32x12 feet & occupied as a Stable.

The property above mentioned is situate in the Borough of Frankford in the County of Philadelphia.

Premium on Dwelling House &c 60-100 pr \$100

Ditto on Barn & Stable 1 pr Ct.

CHAS. BIDDLE

(Endorsed "No. 8 Chas. Biddle August 20, 1804.")

Again the fires were alarming:—

Great fears of fire existed in the early part of 1805, and the watchmen were instructed by councils to examine the hydrants (fire-plugs) every hour during the night in the winter season, and to open them and permit the water to run for two minutes from each, for the purpose of preventing the effects of frost. Whenever there was an alarm of fire the watchman at the most western station in High street was directed to repair to Centre Square engine and there give notice to the people who work the engine. For this trouble he was to be paid two dollars extra per year. (Westcott's History of Philad'a, in Sunday Dispatch, ch. 440.)

Israel Whelen was now agent of the Phoenix Fire Insurance Company, of London. Mr. Whelen had been an extensive shipping merchant, but became embarrassed by French spoliations. During the revolutionary war, though a member of the Society of Friends he was commissary general of the army, and also was employed as financial agent of the government. He was afterwards a member of the senate of Pennsylvania and otherwise engaged in public affairs. Mr. Whelen died October 21, 1806, when the following advertisement appeared in the Aurora:—

The subscriber having made arrangements with the "agents of the Phoenix Company of London at New York," he is authorized by them to make insurances, and renew those effected by the late Israel Whelen. Orders left at the office No. 46 Walnut street, or at No. 159 Market street, will be duly attended to, and insurance made on terms very advantageous to those desirous of effecting the same.

ISRAEL WHELEN.

November 13.

Entering upon his agency, the second Israel Whelen prosecuted the business of the Phoenix with great energy.

The Marine Insurance Company began as the Marine and Fire Insurance Company. (Part I, p. 78.)

With outbreaks of fires again numerous, Mayor Robert Wharton issued a proclamation in February, 1807, offering a reward of \$500 for the detection and conviction of incendiaries. With trials arising from the charge of incendiarism, something tending to disclose the actual origin of fires might have been discovered, but the rather numerous offers of reward to secure the conviction of incendiaries had no such result.

Notice was given that at the general meeting of the Philadelphia Contributionship, to be held April 13,—

A proposal will then be made to consider the propriety of empowering the directors to ensure a larger sum than £500 in one policy, not to exceed two thirds of the value of the buildings ensured; and to lend more than £500 on one security, where the premises are amply sufficient—also, an alteration in the mode of transferring property ensured.

After 31 years of efficient performance of official duties, Samuel Sansom resigned in 1807 as treasurer of the Philadelphia Contributionship, and a testimonial of silver plate was presented to him "for his faithful and disinterested services."

This year, if not earlier, the Philadelphia Society for the Protection of Movable Property in Time of Fire was organized. The members were provided with badges to distinguish them while in service. This association was organized in consequence of depredations which had occurred at fires, and its primary object was to prevent theft and unnecessary destruction of property at fire outbreaks. It was provided with large baskets to carry out goods and vehicles to carry the goods away.

An active competition was developing in fire insurance, though the competitors were few. New proposals by the Insurance Company of North America against loss or damage by fire showed some enlargement of scope and method, and the directors were enabled to congratulate themselves that the litigations attendant upon the complications of marine insurance had not been forced upon the fire insurance practice. In differing lines and ranges of thought, plan and action, the two branches proceeded, as life and action in two differing worlds might be different.

## INSURANCE,

*Against loss or damage by fire by the Insurance Co. of North America.*

The President and Directors of the Insurance Co. of North America, in the City of Phil'd'a, being desirous to employ the capital of said company to purposes useful to the public as well as beneficial to the institution, have resolved to extend their insurances against loss or damage by fire, into different parts of the United States; on buildings of every description as well as on goods, wares and merchandize of all kinds. And upon such moderate and liberal terms, as it is presumed will induce many to avail themselves of the means thus offered, to protect themselves from the destructive injury so frequently occasioned by fire.

Among the various claims which have been made against the company for losses by fire since its first establishment (now more than thirteen years) no instance of a legal controversy has occurred, between the company and the assured.—But on the contrary, all claims for losses of this nature have been adjusted and paid with the utmost promptitude; which circumstance, together with the ample capital the company possess gives them a fair claim to public confidence.

## Rates of annual premiums to be paid for assurances against fire.


No. I.	No. II.	No. III.	No. IV.
Hazards of the First Class viz:	Hazards of the Second Class, viz:	Hazards of the Third Class viz:	Hazards of the Fourth Class, viz:
Brick or stone building, covered with tile, slate or metal.	Brick or stone buildings covered with boards or shingles.	Buildings the walls of which are partly constructed with bricks or stone, and partly with wood.	Slight wooden buildings covered with boards or shingles.
Furniture or merchandize, not hazardous contained in such buildings.	Furniture or merchandize, not hazardous contained in such buildings.	Furniture or merchandize contained in such buildings.	Furniture or merchandize contained in such buildings.
For sums not exceeding 10,000 dols. in one risk, from 25 to 30 cents, per annum per 100 dols.	For sums not exceeding 10,000 dols. in one risk, from 30 to 40 cents per annum per 100 dols.	For sums not exceeding 10,000 dols. in one risk, from 40 to 50 cents per annum per 100 dols.	For sums not exceeding 10,000 dols. in one risk from 75 to 100 cents per annum per 100 dols.*

\* The Eagle Fire Insurance Company of New York, a joint stock corporation, which began business in 1806, had four classes of risks resting on material of buildings, with extra premium for more than \$10,000 on each. Rates for sums not in excess of \$10,000, building or contents, No. 1, 25 cents per \$100; No. 2, 37½ cents; No. 3, 50 cents; No. 4, 75 @ 100 cents. Hazardous goods in building of Class 2 was equal risk with goods "not hazardous" in building of Class 3, etc. No. 4 was, primarily, a building with entirely wooden sides, and contents "not" hazardous; as such, a 75-cent risk. It was a 100-cent risk with hazardous goods as contents.

The Eagle instituted an Extra Hazardous body of risks, distinguished from the enumeration of the special hazards of the Mutual Assurance Company of New York as embracing, in addition, Soap Boilers, Rope Makers, China, Glass or Earthen Ware Sellers, Carpenters (as distinct from Joiners), Paper Mills,



All buildings adjoining to or situated near to hazardous buildings, or in which hazardous goods are kept, or hazardous business carried on, will be charged at an extra premium: subject to such variations as the nature of the risk may require.

 The following articles are deemed extra hazardous, and also buildings in which they, or any of them are contained, though in various degrees, to wit: Pitch, tar, turpentine, rosin, wax, tallow, oil, ardent spirits, sulphur, hemp, flax, cotton, glass and china ware, especially if unpacked, looking glasses, jewellery and all articles more than commonly liable to injury by wet, sudden removal, or theft, or on an alarm of fire.

Buildings in which the following occupations are carried on are also extra hazardous, to wit: Tallow-chandlers, brewers, hemp and flax dressers, painters, coopers, carpenters, cabinet-makers, coach or carriage makers, malthouses, bakers, ship-chandlers, boat builders, rope makers, sugar refiners, distillers, chymists, varnish or turpentine works, theatres, mills, and machinery generally.

#### *Conditions of Insurance.*

I. Persons desirous to make insurance on buildings in places where the Company have no agent, must accompany their applications with a description of the property to be insured, to be made by a master carpenter, and signed by him as well as by the owner or applicant, and attested before a notary or magistrate, who will certify his knowledge of the parties and their credibility. The site and position of the building must be described; the street or road on which it stands; its contiguity to water, and particularly whether any or what fire companies are established, and engines provided in the place or neighbourhood. The materials of which it is built, how secured by battements or party walls, what kind of access to the top of the house, and how the ashes are generally deposited.

II. The dimensions of the building, the style in which it is finished, and how occupied, whether merely as a dwelling house, or for any other purpose, and for what purpose, also, an estimate of the value of the building, independent of the ground.

III. The situation with respect to other buildings or back buildings, whether adjoining or not; comprehending at least one hundred feet each way. What kind of buildings are within that distance, how built, of what materials, how occupied, whether as private dwellings or otherwise.

IV. No insurance will be effected on more than two contiguous buildings, if built of wood, or on property therein; nor on more than three contiguous buildings if built of brick or stone, or property therein.—And there must be a space of at least fifty feet between such wooden buildings and any other property insured, and a space of thirty feet, between such brick or stone buildings and any other property insured.

V. No insurance will be effected on any wooden buildings, or on any property therein, to an amount exceeding two-thirds the value thereof.

VI. When insurance is wanted on goods, a general description of the building in which they are kept must be given, similar in all respects, as to danger from fire, with that required for insurance on the buildings themselves, with a description of the kind and nature of the goods, whether in packages or open.

VII. If any person shall insure any building or goods, and shall cause the same to be described otherwise than as they really are, so as the same be charged at a lower rate of premium than would be demanded if the true situation thereof were made known, such insurance shall be void.

VIII. No insurance is binding until the stipulated premium be paid, but it shall be deemed effectual from the time of such payment whether the policy be signed or not.—And insurances may be continued or renewed at the expiration of the term of the policy, without further expense than the payment of the premium of the renewed term; provided the circumstance of the risk remain as when first insured, or it is not increased.

IX. If any other insurance be made on the same property, notice thereof must be given to this office, and indorsed on the policy, otherwise the insurance will be void. And in case of such insurance each office shall bear a ratable proportion of any loss which may be sustained.

X. Goods held in trust, or on consignment may be insured as such in a separate policy, but they are not to be considered as insured otherwise. Nor are bills of exchange, bonds and other securities, title deeds, money, bank and other notes, or mirrors, unless by special agreement.

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Cabinet Makers, Coach Makers, Boat Builders, Apothecaries, Theatres, Mills and Machinery in general, and all Manufactories using Fire Heat. All rates were subject to enhancement by reason of contiguous exposures and deficient means of fire extinguishing. Detached wooden buildings were reduced in rate for particulars lessening their insecurity. The directors of this company offered "to their Fellow Citizens throughout the United States the Means of Security against" fire loss.

XI. This company will not be liable or accountable for any loss or damage occasioned by the invasion of an enemy, or by any military or usurped force, or by reason of any civil commotion, or occasioned by gunpowder, aqua fortis, or anything of the like kind kept in buildings, or among the property insured, unless by special agreement.

XII. No insurance will be made on buildings for a shorter term than one year, nor for a longer term than seven years. Persons who insure for seven years shall be allowed one year's premium as a discount; and one-third of a year's premium on an insurance for three years. Insurance may, however, be effected on goods in packages, for any term not less than sixty days.

XIII. Losses sustained by fire on property insured in this office, shall be paid in thirty days after due proof and liquidation thereof, without deduction; and it is to be understood that the Company make good losses on property insured by them if burnt by lightning, and also any damage which goods may sustain by wet, sudden removal or theft, when it happens by means or in consequence of a fire.

XIV. Letters of inquiry (post paid) and orders for insurance accompanied by the means of paying the premium, will be promptly attended to, if addressed to

JOHN INSKEEP, President.

Insurance office of North America, Philad'a.

With the Insurance Company of North America advertising its fire insurance, Israel Whelen tried the policy of advertising in behalf of the Phoenix, of London, and the Age of Advertisement as succeeding the "Age of Iron," the "Age of Bronze," and miscellaneous other "Ages" had not yet fairly set in.

#### FIRE INSURANCE.

The subscriber, Agent for the Phoenix Company of London, is fully authorized to effect insurance on houses, buildings, stores, ships in harbour, goods, wares and merchandise in any part of the United States, from loss or damage by fire, on terms so moderate as will, it is presumed, make it the interest of all to resort to a measure, so well calculated to give additional security to commercial transactions, and to afford protection from the injury which fires have so often occasioned.

In this office no insured person is liable to any call to make good the losses of others; but in case of fire the sufferer will be fully indemnified with that liberality and promptness which have always distinguished this company; requiring no other delay even where presumption of fraud appears, than is necessary to distinguish the honest sufferer from the fraudulent incendiary.

As a proof of the usefulness of this institution and the benefit that individuals have derived from it, it is only necessary to state that since the commencement of the office in 1782, near seven millions of dollars have been paid to claimants upon their policies.

Orders left at the Insurance office, No. 159, Market st. will be immediately attended to.

ISRAEL WHELEN.

November 1, 1807, the directors of the Insurance Company of North America empowered the president "to appoint suitable and trusty persons at such places as he shall think advisable to act as surveyors and agents of the company," and in a few weeks agents were appointed in towns of Pennsylvania and in New Jersey, Ohio, Tennessee, Kentucky and elsewhere. Monthly lists of all terminating fire policies were advertised in the Philadelphia papers, stating location of risk, etc. March 14, 1808, President Inskeep wrote to agent James Ewing, at Trenton, in part as follows:—

I am aware that the Phoenix Insurance Company of London do take risks both in and out of this City at a lower premium than we do in this office, and that without much investigation. We find, however, that a decided preference is given to our office at higher premiums than they generally ask, the reasons for which, people must judge for themselves—it does not belong to me to assign them.\*

The agency of the Phoenix was, however, doomed. Legislation was threatening early in 1809; a letter from Lancaster to the editor of Poulson's

\* Hist. Ins. Co. N. A., 68.



American Daily Advertiser, dated March 27, reported the progress of hostile statute making, saying:—

A bill is before the House to destroy the London Phœnix Insurance Office in your city. The bill declares all policies of Insurance made by any foreign Insurance office, in this state, as void, and imposes a penalty on any person insuring in such an office. The first section is yet before the house and will probably pass.

A check was interposed by the legislature upon a manufacturing (specifying conditions of production) which had been shown to be an efficient cause of conflagration, or at least its character as such was evident, viz.:—

AN Act to prohibit distilling and boiling of turpentine and oil, and the manufacturing of varnish within the city of Philadelphia and its neighborhood.

SECTION 1. From and after the first day of May next, no person shall distil or boil any turpentine or oil, or manufacture or boil any varnish in any house, shop, cellar or other place, to the eastward of Tenth street, in the city of Philadelphia, or within the district of Southwark, or within that part of the township of Moyamensing, situate between South street, Seventh street and the Passyunk road, or within the incorporated limits of the Northern Liberties, and including the village called Spring Garden, unless the said distilling, boiling or manufacturing be carried on in an open place at least thirty feet distance from any building, vessel of commerce or other property which might be injured thereby, or in a completely fire-proof building, the sufficiency of which fire-proof shall be determined and agreed upon by at least five respectable master bricklayers of the said city, who shall certify the same under their hands, under the penalty of forfeiting the whole quantity of the articles so distilled, boiled or manufactured, together with the sum of two hundred dollars for every such offence.

SEC. 2. Any alderman of the said city, or any justice of the peace in the district of Southwark, the township of the Northern Liberties, or the township of Moyamensing aforesaid, respectively, on information lodged and demand made by any person, showing a reasonable cause on oath or affirmation, shall issue his warrant under his hand and seal, empowering any constable of the said city or district or proper township, to search any house, shop, cellar or other place within the limits aforesaid, where the said articles are alleged to be distilled, boiled or manufactured, and the said constables upon finding such distillery, boiling of oil or manufacture to be then going on, may seize and remove the said articles therefrom within the space of twenty-four hours, to some safe and convenient place, and therein detain the same until it be determined in the proper court whether the same be forfeited or not by virtue of this act.

SEC. 3. The penalties and forfeitures mentioned in this act may be recovered as debts of equal amount are by law recoverable, with costs of suit, the one moiety of which penalties and forfeitures shall go to the guardians of the poor of the city of Philadelphia, the district of Southwark, or to the overseers of the poor of the township of Moyamensing, respectively, according as the said seizure was made within the said city or district, or either of the townships aforesaid, and the other moiety to the informer or prosecutor who shall sue for the same.

SEC. 4. If any suit or action be commenced and prosecuted against any person or persons, for anything done in pursuance of this act, every such person or persons may plead the general issue, and give this act and special matter in evidence, and if a verdict shall pass for the defendant, or the plaintiff become non-suit, or discontinue his action, or if on demurrer or otherwise judgment shall be given against the plaintiff, the defendant shall recover treble costs. Passed March 16, 1809.

In the year 1809 up to September 20, 223 buildings had been erected in the city and suburbs, so supplying the source of one or two more conflagrations per annum. An association of colored people was now organized. It was called the African Insurance Company, office at No. 159 Lombard street. The African had a capital of \$5,000, divided into shares of \$50 each; president, Joseph Randolph; treasurer, Cyrus Porter; secretary, William Coleman. This association was never incorporated and it survived but a few years.

March 10, 1810, the act against the Phœnix became a law, prohibiting all insurance by foreign corporations, co-partnerships or persons not citizens of the United States. (Part I, p. 92.) An agency partnership which had been entered into by Israel Whelen with Isaac C. Wikoff was then dissolved.



## CHAPTER IV.

*Proposed City Fire Insurance—Organization of the American Fire Insurance Company and Methods and Rates of the American—First Perpetual Insurance of the Contributionship and New Deed of Settlement—Buildings, Manufactures, etc., in Philadelphia in 1810—The Fire Engine and Hose Companies—Fire Jeopardies, Fire Costs and Fire Premiums—The Dwelling House Insurance of the Insurance Company of North America—Some Special Hazards—A Question of Fire Buckets and Fire Hose—Premium Limitations—Fixed Premium and Assessmentism—Insurance Probabilities—Edward Fox—An Early Fire Insurance Rivalry—The American assumes Perpetual Risks—Monthly Open Dry Goods Rates—War Influences—President Jones becomes Secretary of the United States Navy—The Globe Insurance Company of New York—More Monthly Risks—City Illumination and Illuminants—The American's Classes of Risk, Premiums and Regulations, 1816—An Insurance of Owner for Benefit of Lessees—As between Perpetual and Term Risks and Buildings and Contents—Organization of a Firemen's House Insurance Association—Caleb Carmalt—Policy No. 1 of the Fire Association—Charles N. Bancker—Reduction of Premium on Merchandise and Annual Premiums on Buildings—"Fire Proofing" and Fire Extinguishers—Conflagrations in 1819—Alarms about Incendiarism—The Small Proportion of Fire Insurance—The Fire Association wants No More Fire Companies—The Year 1820 as a Fire Period—The Burning of the Chestnut Street Theatre—Spontaneous Ignition—Incorporation of the Fire Association—Manufacturing—Average Annual Rate of Fire Loss of the American and the Insurance Company of North America—The American proposes Insurance of Ground Rent and Mortgagee Interests—Conflagrations in 1822—Captain William Jones becomes Secretary of the American—Secretary Jones's Views concerning Premiums on Ordinary Risks and the Hazards of Cotton Manufactories—Fires of 1821-1824—A Falling off in Fire Losses and Number of Fires—The Philadelphia Firemen—Ralston & Lyman's Fire Insurance Offers—The Protection Fire Insurance Company of Hartford—C. F. Sibbald and the Traders' Insurance Company—The Drift of Short Rates and Long Rates—Building Surveys—Broadening the Risk Assumption—Incorporation and Organization of the Pennsylvania Fire Insurance Company. (1810-1825.)*

BEFORE the bill to prohibit insurance by foreign corporations and persons became a law, municipal fire insurance was proposed:—

In the month of January, 1810, resolutions were passed with much earnestness in councils, in favor of the city becoming an insurer of property from loss by fire and other dangers. The Common Council passed a resolution authorizing a memorial to the Legislature to give the corporation power to effect insurances from loss by fire in the Commonwealth of Pennsylvania. This was not sanctioned by the Select Council. The proposition was subsequently renewed, but was not successful. (Westcott's Hist. of Philad'a, in Sunday Dispatch, ch. 456.)

Insurance with respect to fire loss of both goods and buildings by private corporations was now established, and the first Pennsylvania corporation to insure fire risks in general, unassociated with marine underwriting, began under a charter of date of February 28, 1810. This corporation—The American Fire

Insurance Company of Philadelphia—was organized with a subscribed capital of \$500,000—\$200,000 paid in. The first president of the American was Captain William Jones, who had served with distinction in the Continental navy, under Commodore Truxton, after a service in the army. Edward Fox, secretary, resided at No. 73 Chestnut street, where the office of the company was opened March 12. Israel Whelen took part in this fire insurance enterprise, and was a member of the first board of directors. The risks of the excluded Phoenix, of London, were mainly transferred to the American, of Philadelphia, and the vignette upon the policy of the new Philadelphia office was a close adaptation of that of the Phoenix, and the terms were similar.

The American began at that stage of fire insurance when risks, not insured for interest earning of deposits, were divided into four classes of hazard before described, besides those designated Extra Hazardous, the latter being named by the American in its published Proposals as "Tallow melters, soap and candle makers, brewers, hemp and flax seed dressers, printing houses, coopers, carpenters, cabinet makers, coach makers, malt houses, bakers, ship chandlers, boat builders, ropemakers, sugar refiners, distillers, chemists, varnish makers, turpentine works, theatres and all mills and machinery." Rates on class 1 were 25 cents per annum per \$100 of insurance; class 2—30 @ 37½ cents; class 3—50 @ 55 cents; class 4—75, 90 and 100 cents. The maximum insurance on a single risk was \$10,000. For Extra Hazardous risks the rates were to be "proportionably increased."

At the beginning the American established agencies in large towns of the State, and received risks from other States by correspondence.

After submitting to the public its annual rates, the American, now at 101 Chestnut street, put forth the following scale of premiums for different monthly periods, in the insurance of vessels in port and merchandise in stores, such being recognized as of "the least hazardous risk" (those of "greater hazard" being "the subject of special agreement with the office"), viz.:—

For 1 month 10 cents per \$100		For 7 months 22 cents per \$100	
2	12	8	24
3	14	9	26
4	16	10	28
5	18	11	30
6	20	12	32

April 11, 1810, the Philadelphia Contributionship issued its first perpetual policy; a supplement to the act of incorporation had been enacted March 20, 1810, and in accordance therewith a new deed of settlement was adopted by the Contributors, which included the acceptance of the shade tree risk among the other changes. Some of the sections of the new deed of settlement were as follows:—

IV. Every policy hereafter to be issued by this Society shall be made to continue in force for an unlimited period. But whenever a total loss of the property ensured shall happen, the policy, upon the payment of the said loss or upon the rebuilding of the property as is hereinafter provided, shall be delivered up to the Society, who shall be entitled to retain the deposit money, and the ensurance shall from thenceforth cease and be of no effect. And it shall moreover be lawful for either the Assured or this Society, at the expiration of seven years from the date of any such policy, or at the expiration of any period of seven years thereafter, to cancel the same, or to withdraw the deposit money,



thirty days previous notice being given of an intention so to do. And in case the party assured shall sell the property ensured before the expiration of any such period of seven years, it shall be lawful for him to give up the policy and to withdraw the deposit money upon paying to the Society five per centum upon the amount of such deposit. But in all cases in which the deposit money shall be withdrawn as aforesaid, if it shall have happened during the period such policy has been in force, that the stock of the Society has been lessened by losses, then and in such case a just proportion of all such losses as the interest money has been insufficient to satisfy, shall be first deducted out of the said deposit money.

V. Not more than one house and kitchen shall be ensured in one Policy, except where two or more small houses stand contiguous together, which do not in the whole exceed the value of three thousand dollars, and except also when a stable or coach house, or both, stand contiguous on the same lot of ground with the dwelling house, in which case such building shall be distinctly valued.

VI. New and unfinished houses may be ensured in this Society, when covered in, provided the sum ensured on them does not exceed two thirds of the value thereof, and a clause be inserted in the Policy that the same shall be void if it appears that such unfinished house took fire within. But no wooden houses shall ever be ensured by this Society nor any house in which there is a Cooper's shop, or Bake-house, not built according to law. No Sugar-house, Brew-house, Bake-house, Still-house, Cooper's or Joyner's shop, Retail Grocery-store, or other house or shop wherein any of the hazardous trades of business following are carried on, to wit, Apothecaries, Chymists, Ship-chandlers, Tallow-chandlers, Stable-keepers, Inn-holders, Malt-houses, Oil and Colour Men, or which are used as stores for the following hazardous goods, to wit, Hemp, Flax, Tallow, Pitch, Tar, Turpentine, Rosin, Salt-petre, Sulphur, Spirits of Turpentine, Distilled Spirits, Hay, Straw and Fodder of all kinds, and Corn unthrashed, shall be ensured in this Society, but on such terms only as shall be concluded on by special agreement with the Directors; and no Policy shall be extended or construed to extend, to the Assurance of any Sugar-house, Brew-house, Bake-house, Still-house, Cooper's or Joyner's shop, Retail Grocery-store, or other house or shop wherein any of the hazardous trades or businesses above mentioned are carried on, or wherein any large quantities of hazardous goods above enumerated, unless such hazardous places or goods be expressly mentioned in the Policy, and a proportionable deposit paid. And in case any member of this Society receive any damage from the storing of Gunpowder or Breaming of ships at the wharves by himself, he shall have no recourse therefor under this Policy.

VII. Every person ensuring with this Society shall deposit in the hands of the Treasurer, a certain sum to be fixed by the Directors, which shall be in proportion to the greater or less hazard of the building or buildings, and the sum ensured thereon; and in addition to the said deposit shall pay for each Policy and other services incident thereto the sum of thirty cents for every hundred dollars ensured, exclusive of any stamp, or public duty, and for every entry or transfer the sum of fifty cents; but in no case shall the sum paid for the Policy and incidental services be less than four dollars, or more than fifteen dollars.

VIII. Houses or other buildings, having Trees planted before them, may be ensured in this Society; but in such case there shall be an addition to the usual deposit money to be determined by the Directors and to be in proportion to the risk such trees may occasion. And in case trees are planted before a house or building after ensurance is made, the same shall be reported to the office and the additional deposit paid within one year after they are planted, or the ensurance shall be void.

XIX. The directors shall have power to reward out of the Society's stock, such as are voluntarily active in dangerous cases to extinguish fires, and they may aid and assist Fire or Hose companies with such donations of money as they may think for the interest of the Society.

XX. The Directors of this Society, shall always stand and be indemnified and saved harmless by this Society, in and for their giving out and signing Policies of ensurance and all other their lawful acts, deeds and transactions, done and performed in pursuance of the articles and the act of incorporation; and the stock securities and joint effects of this Society shall in the first place be appropriated to exonerate and discharge, indemnify and save harmless the said Directors and every of them, of and from all such costs, charges, damages and expences, which shall or may happen or arise, or which they or any of them shall reasonably expend or sustain, for or concerning the trust aforesaid. Nor shall any of the said Directors be answerable for, or charged with the defaults, neglects or misdeeds of the others of them.

By the national census, Philadelphia had, in 1810, a population of 96,287, with 15,814 dwelling houses, of which 6,582 were frames. This enumeration included not only the city proper, but the outlying districts of the Northern



Liberties, Penn Township, Kensington, Southwark, with Moyamensing and Passyunk, in every one of which districts frame buildings preponderated, though the Northern Liberties had rather more brick than frame dwellings. There were, besides, 1,462 stores, of which 278 were frame; also 237 brick and 147 frame manufactories. Of the 205 public buildings, 53 were frame. There were, likewise, 5,635 stables, workshops, and miscellaneous buildings—1,128 brick, 4,507 frame. In all, there were 11,928 brick and 10,841 frame buildings—the buildings in the city proper being 8,640 brick and 4,601 frame. There were about 15 cotton, woolen and other textile factories (273 looms, 3,648 spinning wheels), 15 rope walks, 44 establishments working copper, brass and tin; 11 porter, ale and beer breweries, (in one of these Robert Hare, the most original of American chemists, received his first ideas on the chemistry of combustion\*); 10 sugar refineries, 18 distilleries, 28 soap and candle makers, 14 glue manufactories, 17 carriage makers, 7 paper mills, 27 tobacco and snuff factories, 28 cutlers, 3 oil mills, 16 potteries, 2 glass works, 3 iron foundries, etc., etc. The ingenious Oliver Evans was making, on the Ridge road, near Ninth and Vine streets, steam engines and a great variety of wrought and cast iron implements and mill machinery. Mr. Evans had, as early as 1787, constructed the first working non-condensing or high-pressure engine; and so, by economy in the space occupied, when George Stephenson was six years old, was laid the foundation of the locomotive engine. The steam motor was yet almost in its infancy, and the machinery driven by the motor less advanced.

The diversity of the fire hazard thus indicated engaged volunteer companies with 35 manual (side-brake) engines and 9 hose companies (hose  $2\frac{1}{8}$  to  $2\frac{1}{2}$  inches in diameter). The steam water works, first throwing water into conduits in 1801, were now distributing water through about 35 miles of wooden pipe in the city proper, such pipes being logs chiefly of  $4\frac{1}{2}$  and 3 inch bore.

On the basis of the interest premium, the Philadelphia brick dwelling was first written at a rate of 6 cents per annum per \$100 insured; the furniture in the building was written at 30 cents per annum. The building premium was found inadequate, the furniture premium became an established rate. With fire insurance an empiricism and the hazard an unknown quantity, we have not any data by which we can deduce the fire jeopardies of the period in the locality, excepting approximate differences in different orders of combustible properties. Conjecturally, it can be said that the fires of Philadelphia in the first decade of the present century were, omitting the burning out of the soot in uncleaned chimneys—wood being the universal fuel—about 90 per annum, with an average loss perhaps exceeding \$500. The boiling of oil of turpentine and varnish continued to be esteemed the greatest fire peril. Not any class of hazards appears to have had a fire cost above 100 cents per annum to the \$100 of value. Philadelphia burned, 1800–10, per year, about two dollars per building and contents.

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\* The greater Dr. Priestley, a Unitarian clergyman, was preaching at times in Philadelphia in the early part of the century, but it was as an English chemist that Priestley first dissociated and collected oxygen from the red oxide of mercury. Dr. Priestley was the successor, as pastor, at the Gravelpit meeting at Hackney, England, of Dr. Richard Price, the compiler of the earliest practicable English mortality table.

The non-perpetual or annual premium dwelling house insurance was a strict limitation of policy sum as the full contingent payment for loss or damage occurring within the term of the insurance. By the Insurance Company of North America, the maximum insurance was the full insurable value of the whole property, and the total insurable sum was payable when the building "shall be wholly destroyed," and thereby the contract would be fulfilled. A policy "on house," issued by the company March 23, 1811, is here copied:—

ON HOUSE.

(FOR ONE YEAR.)

[L. S.]

By the President and Directors of the Insurance Company of North America.  
No. 6745.

WHEREAS *Robert Harwood*

has paid to the President and Directors of the Insurance Company of North America *Twenty-four Dollars premium for Insurance of Eight thousand Dollars on two contiguous three story Brick Houses situate on the West side of South Front Street designated by Nos. 30 and 32 in the City of Philadelphia* from Loss or Damage by Fire for *One Year*, from this *Twenty-third* day of *March* One Thousand Eight Hundred and *eleven*. Now Know All Men By These Presents that in consideration thereof the Capital Stock, Estate and Securities of the said Corporation shall be subject to pay unto the said *Robert Harwood*, *his* Executors, Administrators or Assigns, any Loss or Damage which shall or may happen by or by means of Fire to the said Building, within the term aforesaid, unless they the said President and Directors shall forthwith give directions for putting the said Building in as good a state of Repair as it was in before it was so injured by fire; or shall make good the said Loss or Damage by paying therefor according to the estimate thereof, to be made by one or more persons mutually chosen by the parties; or provided the said Building shall be wholly destroyed by or by means of Fire within the term aforesaid then the said Capital Stock, Estate and Securities of the Corporation shall be subject to pay to the said *Robert Harwood*, *his* Heirs, Executors, Administrators or Assigns, the entire Sum of

*Eight thousand Dollars.*

Which said Loss or Damage shall be paid or indemnified in manner aforesaid within thirty days after proof thereof; and if any dispute shall arise respecting the same between the Corporation and the Assured, such difference shall be submitted to the judgment and determination of Arbitrators to be mutually chosen by the parties, whose award in writing shall be conclusive and binding. But in all cases where partial losses or damages do occur to the property insured by this policy, within the period above stipulated, and afterwards a total loss of the same within the same period, whereby claims may arise to a larger amount together, than the sum hereby insured; the Assured shall in no wise be entitled to receive more than the whole sum so insured, within the period for which the insurance is made. Provided always nevertheless, and it is hereby declared to be the true intent and meaning of this Policy, that the said Stock, Estate, and Securities of the said Corporation shall not be subject or liable to pay, or make good to the Assured any Loss or Damage by Fire, which shall happen by Invasion, Foreign Enemy, Civil Commotion, or any Military or usurped power whatever; And provided also, that this Policy shall not take effect or be binding to the said Corporation, in case the said Assured shall have already made, or shall hereafter make any other Assurance upon the Building aforesaid, unless the same shall be allowed of and specified on this Policy. Or if the Building above-mentioned shall, at the time when any such fire shall happen, be in whole or in part occupied by any person who shall use or exercise therein the Trade of a Carpenter; Joiner; Cooper; Tavern-keeper; or Inn-holder; Stable-keeper; Bread or Biscuit Baker; Sugar Baker; Ship Chandler; Boat Builder; Malt Drier; Brewer; Tallow Chandler; Apothecary; Chemist; Oil and Colourman; Flax or Hemp-dresser; Printer; Coach or Carriage Maker; Rope Maker; Distiller; Varnish Maker; or Aqua-fortis Manufacturer; or shall be made use of for the storing or keeping of Hemp, Flax, Earthen ware, or other merchandise packed in hay or straw; Gun-powder, Spirits of Turpentine, Hay, Straw, Fodder of any kind, or Grain unthreshed; but that in all, or any of the said cases, this Policy, and every clause, article and Thing herein contained shall be void and of none effect; otherwise it shall remain in full force and virtue.

In Witness Whereof, the said Corporation have caused their Common Seal to be hereunto affixed on the *Twenty-third* Day of *March* in the Year of our Lord, One Thousand Eight Hundred and *eleven*.



N. B. This Policy may be transferred by indorsement made with the consent of the Company (but not otherwise), and the Insurance continued from time to time without any additional expense (subject, however, to such modifications as circumstances may require), the premium for the renewed term being first paid.

\$8000, *Eight thousand dollars.*

JNO. INSKEEP, Pres.

Dollars \$8000 @  $\frac{30}{100}$  \$24.00.

There was here, as was the usage of the time, a very close approach to a valued fire policy in case of total loss. With such liability as attended the deposit for interest premium, and the less immediate cash demand for the annual premium, the latter for dwellings and other buildings was not altogether superseded though a much higher payment than the interest on the deposit. The proviso to the foregoing policy indicates the carriage maker, rope maker, and aqua-fortis manufacturer as being newly appreciated as Philadelphia fire hazards, and perhaps the maker of nitric acid comprehended the maker of sulphuric acid—the former burning sulphuric acid with a nitrate, the latter sulphur with a nitrate. Harrison's works in Philadelphia were producing 4,000 carboys of sulphuric acid a year at the date of the policy.

A fire in October, 1811, on Front above Mulberry or Arch street, gained such headway as made some older citizens desirous of a revival of the discontinuing fire bucket. It was said that the fire made headway through the "great want of buckets," the citizens having "depended too much on hose companies," whose hose "is continually out of order."

It cannot be said that fires made insurance rates as yet otherwise than by very general suggestion, and as a general rule annual rating was a question *where* the premium should be fixed between 25 cents and \$1.25—some combinations with all-wood building excepted. The fixed premium (*primo*) was (excepting in so far as the interest premium was a contingency), and continued to be ever afterwards, with slight exception, the foundation of Philadelphia insurance; but in 1811, in Bucks county, adjoining Philadelphia county, the Bucks County Contributionship Insurance Company was incorporated, beginning with a deposit for its fire risks, but afterwards it adopted the assessment method in addition, and assessment became the mode of what were called distinctively the mutual fire companies, and as a distinction was a misnomer. Insurance is essentially mutual. A special proprietorship is simply an administration arrangement. Whether loss shall be *prepared* for or merely *waited* for, does not affect the insurance proposition that each is bound to all and all to each. To refuse compliance with suggested Probabilities\* does not abrogate their sway, and any project which only arranges to meet at the time of loss the occurrences of loss as they shall arise, is not insurance.

Edward Fox, secretary of the American, was not simply a clerical official; he was an active executive officer, assertive in his methods, and strongly competitive. Between the two Philadelphia companies engaged in insuring personal property as well as buildings exposed to the jeopardy of fire, there

\* Probability in insurance is in no sense a prophecy as to particular destiny. It does not pertain to the individual risk in isolation, but to the individual as part of the class or collective hazard, though the individual shares in the common jeopardy. Insurance probability is an estimated recurrence in the future of the average of past occurrences, according as the new conditions promise to modify the outcome.



was not only an energetic, but an enterprising rivalry. The American did not risk "its funds on marine or other hazardous adventures," but it was ready for the entire fire insurance programme, and it was announced that from and after March 1, 1812, (legislative authorization thereunto having been obtained,) the American would make perpetual insurance against fire loss; and the first perpetual policy was executed March 10. At the same time a scale of premiums for monthly risks, or monthly periods of risk, on dry goods opened on shelves and otherwise, and generally upon dry goods not in package, was arranged: One month, 15 cents per \$100 insured, advancing by two cents for each additional month unto 37 cents for twelve months; a like arithmetical progression to that of the short rates on vessels in port and merchandise in store, having 10 cents as its first term.

While the marine offices were busy with the war declared against Great Britain in June, 1812, the fire offices were called to give some consideration to the development of local manufacturing interest, caused by the war restrictions on imported goods; but, in 1813, President William Jones, of the American—and therefore, insurance-wise, in the fire and not the marine way—was appointed by President Madison secretary of the navy. His successor in the presidency of the American Fire was Guy Bryan.

In June, 1814, the Globe Insurance Company of New York—capital \$1,000,000, William Henderson president, John Eastmond secretary—announced by advertisement to the people of Philadelphia the character and conditions of its insurances—seven classes of fire hazard. It opened no agency in the city, delivering its policies from the New York office, No. 55 Wall street. The American next year added houses and household goods to its insurances for monthly periods—one month 10 cents per \$100, two months 12 cents, etc.

Owing to the obstructions of the war, whale oil for illumination become at times very scarce, resulting in greater use of tallow and old fat, but without being of marked result upon the rate of fire outbreak. February 15, 1815, the city was illuminated, under recommendation of Mayor Wharton, in celebration of the treaty of peace with Great Britain. An ordinance of January 18, 1790, had imposed a penalty of five dollars for every house illuminated on any occasion without permission of the mayor. Prices of merchandise then began to recede, such receding having its effect upon the fire policy business as an underwriting and loss settlement at prices. The investments of the companies rose in price and were temporarily strengthened in security.

The American, with the most comprehensive experience as to the fire hazard, continued its original proposals, with incidental modification in terms and items. The basis of the insurance under temporary policies in 1816 was as follows:—

*Rates of Annual Premiums to be paid for Assurance against Fire.*

No. I. Hazards of the First Class.

Brick or Stone Buildings, covered with Tile, Slate, or metal.

Furniture or Merchandise not hazardous contained in such Buildings.

For Sums not exceeding 10,000 Dollars in one risk, 25 cents per annum, per 100 Dollars.

## No. II. Hazards of the Second Class.

Buildings, having the four walls entirely of Brick or Stone, and covered with Boards or Shingles.

Furniture or Merchandize, not hazardous, contained in such Buildings.

Hazardous goods, viz: Pitch, Tar, Turpentine, Saltpetre, Flax, Hemp, Oils and Tallow in Buildings of the first class.

For Sums not exceeding 10,000 Dollars in one risk, 30 to 37½ Cents per annum per 100 Dollars.

## No III. Hazards of the Third Class.

Buildings constructed partly with Brick or Stone, and partly with Wood; or having either of the four walls filled in with Brick.

Furniture or Merchandize, not hazardous contained in such Buildings.

Hazardous Goods, viz: Pitch, Tar, Turpentine, Saltpetre, Flax, Hemp, Oils and Tallow, in Buildings of the second class.

For Sums not exceeding 10,000 Dollars at one risk, 45, 50, 55 Cents per annum, per 100 Dollars.

## No. IV. Hazards of the Fourth Class.

Timber or slight Buildings, covered with Shingles or with boards.

Furniture or Merchandize, not hazardous, contained in such Buildings.

Hazardous Goods, viz: Pitch, Tar, Turpentine, Saltpetre, Flax, Hemp, Oils and Tallow, in buildings of the third class.

For Sums not exceeding 10,000 Dollars in one risk 75 to 90 Cents per annum per 100 Dollars.

\*.\* Ships in port and their Cargoes, Ships building or repairing; also, Barges and other small Craft, with Goods on board may be insured against Fire.

††† Larger sums may be insured by special agreement. All buildings in contiguity to other hazardous Buildings, or in other respects situated disadvantageously, will be charged an extra Premium. The rates may also, in some cases, be proportionably moderated upon Timber Buildings in the Country, or when standing single and detached, or attended with circumstances of peculiar security.

☞ Tallow Melters, Soap and Candle Makers, Brewers, Hemp and Flax Dressers, Printing houses, Coopers, Carpenters, Cabinet-Makers, Coach-Makers, Malt-Houses, Bakers, Ship-Chandlers, Boat-Builders, Rope-Makers, Sugar Refiners, Distillers, Chymists, Varnish-Makers, Turpentine Works, Theatres and all Mills, and Machinery, are deemed extra hazardous.

*Conditions of Insurance.*

I. Persons desirous to make Insurance on Buildings, are to deliver to the Secretary of the Company the following particulars, viz: Of what materials the Walls and Roof of each Building are constructed, as well as the construction of the Buildings contiguous thereto. . . . Whether the same are occupied as private dwellings, or how otherwise. . . . Where situate. . . . Also the name or names of the present occupiers.

Each Building must be separately valued, and a specific sum insured thereon, . . . and in like manner a separate sum insured on the property contained therein. All Manufactories which contain Furnaces, Kilns, Stoves, Coakels, Ovens, or otherwise use Fire-heat, are chargeable at additional rates.

In the Insurance of Goods, Wares, or Merchandize, the Building or place in which the same are deposited is to be described; also, whether such Goods are of the kinds denominated hazardous, and whether any Manufactory is carried on in the premises. And if any person shall insure his or their Building or Goods, and shall cause the same to be described in the policy otherwise than as they really are, so as the same be charged at a lower premium than is herein proposed, such insurance shall be of no force.

II. Goods held in trust, or on commission, are to be insured as such, otherwise the policy will not extend to cover such property.

III. No Loss or Damage to be paid on Fire happening by any invasion, foreign enemy, civil commotion, riot, or any military or usurped power whatever.

IV. Books of accounts, written securities, bills, bonds, tallies, and ready money cannot be insured.

V. Jewels, plate, medals, or other curiosities, paintings and sculpture, are not included in any insurance, unless such articles are specified in the policy.

VI. Persons insuring property at this office, must give notice of any other insurance made elsewhere on their behalf on the same, and cause such other insurance to be



indorsed on their policies; in which case each office shall be liable to the payment only of a rateable proportion of any Loss or Damage which may be sustained; and unless such notice is given, the insured will not be entitled to recover in case of Loss.

VII. No order for insurance will be of any force, unless the premium is paid to the Secretary of the Company, or unless a sum has been advanced, and the Secretary has delivered his receipt on account of the Company; and all persons desirous to continue their insurances, must make future payments annually, on or before the day limited by their respective policies, or the same will be void.

VIII. All persons assured by this Company, sustaining any Loss or Damage by Fire, are forthwith to give notice to the Secretary, and as soon as possible after, to deliver in as particular an account of their Loss or Damage, as the nature of the case will admit of, and produce to the Company satisfactory proof thereof.

IX. In case any difference or dispute shall arise between the assured and the Company, touching any Loss or Damage, such difference shall be submitted to the judgment and determination of arbitrators indifferently chosen, whose award in writing, shall be conclusive and binding on all parties.

X. Persons chosing to insure Buildings for seven years, will be charged for six years only; also for a less number of years than seven, will be allowed a reasonable discount.

Policy No. 1945 was issued by the American, June 14, 1817, and was an insurance effected by owner of premises for benefit of lessees, according to the interest of such lessees as an insurability, viz:—

*Insurance Against Fire Only.*

On Goods.

Capital \$500,000.

No. 1945.

This Policy of Insurance Witnesseth That *John Morton* has paid to the AMERICAN FIRE INSURANCE COMPANY,

*Thirty-seven Dollars & 50 Cents*

Premiums (according to the tenor of their printed proposals hereunto annexed,) not exceeding in each case the sum or sums herein after recited, upon the property herein described, in the place or places herein set forth, and not elsewhere, (unless allowed by endorsement made hereon: viz: On *his Stone Merchant Mill situate on the north-east side of Brandywine Creek agreeably to a survey lodged in this office dated this ——— day of this month.*

*This policy is made for the benefit of Samuel Canby and Son Lessees of the Premises.*

Know All Men By These Presents, That in consideration thereof, the Capital Stock, Estate and Securities of the American Fire Insurance Company, shall be subject and liable to pay, make good and satisfy unto the said insured *his* heirs, executors, administrators, and assigns, all such damage or loss which shall or may happen by Fire, to the goods above mentioned, from the day of the date hereof to the full end and term of *one year* not exceeding the sum of *Five Thousand* dollars, unless the said Company shall, within thirty days after proof of such damage or loss, furnish the said insured with a like quantity of any or all of the said goods and of the same quality as those so injured by Fire, or shall make good the said damage or loss, by paying therefor, according to an estimate thereof to be made by arbitrators, indifferently chosen, whose award, in writing, shall be conclusive and binding upon all parties.

Provided Nevertheless, and it is hereby declared, to be the true intent and meaning of this Policy, that the Capital Stock, Estate and Securities of the said Company, shall not be subject or liable to pay, or make good to the said insured, any damage or loss by Fire, which shall happen by any invasion, foreign enemy, riot or civil commotion, or any military or usurped power whatever. Provided also, that if the goods herein mentioned, or any part thereof, are already insured, or shall hereafter be insured by any Policy, issued by this Company, or by any agent thereof, or by any other Insurance Company, or by any private Insurers, or otherwise, such other Insurance must be made known at this office, and mentioned in or endorsed upon this Policy, otherwise this Policy to be void: or if the *Mill* above mentioned shall, at any time when such Fire shall happen, be, in whole or in part, occupied by any person who shall use or exercise the trade or business of a Carpenter, Joiner, Cabinet Maker, Windsor Chair Maker, Coach Maker, Cooper, Tavern Keeper, or place of public Entertainment (with or without license) Stable Keeper, Baker, Sugar Refiner, Ship Chandler, Boat Builder, Rope Maker, Maltster, Brewer, Distiller, Tallow Chandler, Soap Maker, Apothecary, Chemist, Varnish Maker, Oil and Colourman, Picture or Print Seller, Printer, Cotton Spinner, . . . . .; or if the same shall be made use of for the storing or keeping of any Hemp, Flax, Tallow, Pitch, Tar, Turpentine, Rosin, Salt Petre, Sulphur, Gun Powder, Spirits of Turpentine, Shingles, Straw, Hay,



. . . . . Oil, Aqua Fortis, then, in all or any of the said cases, this Policy, and every clause, article and thing herein contained shall be void and of no effect: Nor shall this Policy have any force or effect, if assigned, unless such assignment is allowed by the company, and such allowance endorsed hereon.

It is agreed that this Policy shall expire at twelve o'clock at noon, on the *fourteenth* day of *June* in the year one thousand eight hundred and *eighteen*.

*The printed words "or any Mills or Machinery," "Fodder of any kind, Grain unthreashed" are erased.*

In Witness Whereof, the common seal of the said Corporation is hereunto affixed this *fourteenth* day of *June* in the year of our Lord, one thousand eight hundred and seventeen.

[L.S.]

CHAND. PRICE, President.

Attest: EDWARD FOX, Sec'y.

[The Proposals followed.]

Subsequent transfer of the policy by the insured to the beneficiaries was in these terms:—

*For value received I hereby assign and transfer to Samuel Canby and Son, of Wilmington, Delaware, all my interest, right, title, claim and demand in the within Policy of Insurance.*

*Witness my hand and seal this twelfth day of February 1818.*

P. HENSZEY  
GEO. C. CLINTON

JNO. MORTON, [L. S.]

*This assignment is allowed.*

*March 1, 1818.*

EDWARD FOX, Sec'y.

Policy renewed—at same rate—in 1818, 1819, 1820, 1821, 1822.

The perpetual policy continued in the ascendant, not only from its cheapness, but from being a distinctive and separate house insurance; the idea among the people that goods and furniture, as being removable, were salvable, while the building being fixed must burn, yet most determined the character of the insurance; and as yet it was rather the building which first ignited than the contents. Firemen now began to organize as insurers of buildings, claiming that any profit arising from insurance against fire loss should properly enure to the good of the service which kept fire destruction within the existing limits. The project was got into form in 1817 as an association, which was composed of eleven engine and five hose companies. The property of the associated fire companies, under the title of the Fire Association of Philadelphia, was pledged for the acts of the thirteen trustees, with the nominal legal personal liability of the trustees for loss in excess of the "capital stock of the association" made the subject of special exemption. No dividend could be paid to the associated companies until the "capital stock" amounted to \$15,000, and such capital included premium and interest accumulation. In case of a single fire, or two or more burnings at one time, involving a loss or losses in excess of such "capital stock," the whole property of the organization was to be divided *pro rata* among the loss claimants. Persons within the membership of the association had the privilege of having their property insured at 5 per cent. less than others. An oval house badge was adopted, representing a fireplug and a section of hose, with the letters F. A. respectively on each side of the plug. This informed the associated firemen what building property was at the hazard of the association in the emergency of fire. Regulations were established for the admission of other companies than the original members. Caleb Carmalt (for 42 years clerk of the Contributionship, in the last ten of which years he was also

treasurer), became the supervisor and conductor of the firemen's insurances, with title of Treasurer.

The first insurance by the Association was upon a three-story brick store of less hazard, as estimated, than a retail grocery, with a deposit of  $3\frac{1}{4}$  per cent.—equivalent to an annual interest premium of  $19\frac{1}{2}$  cents per \$100 insured.

BY THE TRUSTEES OF THE  
FIRE ASSOCIATION OF PHILADELPHIA.

No. 1.

PERPETUAL.

This Policy Witnesseth that *Samuel Bleight* of the city of Phila has deposited with the Treasurer of the said Association the sum of *sixty-five dollars* as a part of its Capital Stock agreeably to the said charter for the Insurance from loss or damage by Fire of *Two Thousand* dollars on a *three story brick store situated at the corner of Point and Frankford Road being 26 feet front by 40 feet deep narrowing to 10 feet 6 inches on the back line* as per survey No. 1, in consideration whereof the capital stock of the said Association shall be and remain forever subject, and liable to pay, make good and satisfy unto the said insured, *his* heirs, executors, administrators and assigns, all such damage or loss, as may at any time happen by means of fire to the building herein before described, not exceeding the said sum of *Two Thousand* dollars, unless the said Association shall within thirty days after proof of such damage, if the loss be not total, give directions for putting the said building into as good a state of repair as the same were before so injured by fire; and proceed therein with reasonable diligence; or shall within sixty days after such proof pay for such damage, according to an estimate thereof to be made by arbitrators mutually chosen.

It is agreed and hereby declared, that the Trustees of the said Association shall not be made personally liable for damages arising from this insurance, in case the said damages, together with those arising from other insurances, effected, or to be effected by the said Trustees, shall amount to more than the whole capital stock of the said Association, nor in any other case whatever; and such personal liability is hereby expressly relinquished by the said *Samuel Bleight* who hereby consents and binds *himself* to look to the said capital stock, and to that alone for *his* indemnity against any and every loss which may happen under this Policy; and acknowledges and admits that at the time of effecting this insurance there is exhibited to *him* a semi-annual statement of the actual capital of the said Association, in pursuance of and compliance with the provisions of the said charter.—Provided that if any loss occasioned by one fire (or more than one happening before the extinguishment of the first) shall amount to more than the whole stock of the Association, in such cases the several sufferers insured shall receive a just and proportional dividend of the said whole stock, according to the sums by them respectively insured, and the loss by them sustained. And Further, that no distribution shall take place, of the said capital stock, otherwise than is provided by the said Charter; but in case the said *Samuel Bleight* shall at any time wish to withdraw *his* insurance from the capital stock, *he* shall be permitted so to do, first paying to the Association a discount thereon, proportioned to any partial loss the said Association may have sustained, and allowing a deduction of five per cent. on *his* deposit money, if the losses then incurred by the Association be not equal to the whole capital stock. And in case the said premises shall be sold and conveyed by the insured, and this policy not transferred,—the said insured, *his* heirs, executors, administrators, or assigns, may demand and receive the said deposit money, the discount and deduction aforesaid, being first made thereon, if applied for within ninety days after such sale and conveyance; otherwise the said deposit money shall be sunk for the benefit of the capital stock, and a similar permission in like cases shall be inserted in every Policy executed by the said Association. And if in the case of a total loss on this Policy, the said Association shall rebuild the said building or pay the money insured thereon, or a dividend of the whole stock, where it shall fall short of the losses incurred,—and in either of these cases, the deposit money shall be retained by the Association, and this Policy shall be cancelled.

Provided Also, that if the premises hereby insured are at this time, or shall hereafter be insured elsewhere, this insurance shall not take effect, nor be binding unless the said other insurance be allowed of, and specified on the back of this Policy; and in such case of such other insurance, without allowance as aforesaid, the deposit money shall be deemed as sunk for the benefit of the capital stock. And if trees are planted before the said building after the date hereof, and not reported to the said Trustees, and such additional deposit paid therefor as the said Trustees shall require for the increase of the risk, within one year after they are planted, this Policy shall henceforth be void, and the deposit money sunk as aforesaid.



The survey taken at the time of this insurance, and signed by the insured, shall be the only evidence of the state of such building—and if any alteration be made therein, or connected therewith, affecting the risk, the insured shall forthwith give notice thereof to the said Association, and make such additional deposit, as the Trustees may demand therefor: in failure whereof this Policy shall be void.

This Policy shall be void if any such hazardous business as that of Oil and Colourmen, Apothecaries, Ship-Chandlers, Tallow-Chandlers, Stable-keepers, Inn-keepers, Coopers, Cabinet-Makers, House-Carpenters, Distillers, retail Grocers, Brewers, Bakers, or Maltmen, shall be carried on in the said premises, unless the same is done by permission of the Trustees, and specified on this Policy in writing, and a proportional deposit paid; nor shall the Association ever be held liable or responsible for any damages which may happen to the said premises from the storing of hemp, flax, tallow, pitch, tar, turpentine, rosin, salt-petre, sulphur, spirits of turpentine, distilled spirits, hay, straw, or fodder of any kind, unthrashed corn, gun-powder, or from the breaming of ships, the invasion of a foreign enemy, or any civil commotion without an additional deposit paid therefor.

In case of a Sale of the premises insured, this Policy may be assigned to the purchaser, on application to and with the consent of the Trustees, within twenty days thereafter, but not otherwise—And in default of making such application, this Policy shall be void.

*In Witness Whereof*, the said Corporation have caused their Corporate Seal to be hereunto affixed, this 23d day of September, A. D. one thousand eight hundred and eighteen.

[L. S.]                      Attest

CALEB CARMALT, Treas.

One peril named as not within the indemnity provided for by the primary deposit of the policy, *i. e.*, the beaming of ships, or burning off of sea weeds, shells, etc., from ships' bottoms, was prohibited on the Delaware wharves between Cedar and Vine streets, under penalty of one hundred and fifty dollars.

(On the day this policy of the Fire Association was issued, the after Nestor of Philadelphia fire insurance, Charles N. Bancker, was selling "bear skins, tobacco, and imported dry goods," at No. 8 North Fourth street. Mr. Bancker, at this period, was one of the directors of the Pennsylvania Company for Insurances on Lives and Granting Annuities.)

As a characteristic of the second decade of the nineteenth century, with the perpetual fire deposit increasing term rates declined. The Insurance Company of North America had found a margin in its annual premiums above fire cost and expense sufficient to justify a concession in its charges, and in order to stimulate the growth of term fire insurances, offered the public, in September, 1818,—

Insurance against Loss or Damage by Fire, at their Office, No. 40 Walnut street, on Merchandize in Store, and also on Buildings; at such reduced premiums as to make it an object to all those who may wish to protect themselves against loss by that destructive element.

Other defences against that "destructive" member of the ancient "elements" than indemnity for loss had engaged the attention of the people most, but now the excitement attending the extinguishment of fires rather than the loss was alarming the people into the acceptance of the fire insurance provision. Even with the increase of manufactures in the first part of the decade, there was not any perceptible growth of the hazard in the second decade of the new century. "Dreadful" fires raging in other places more than those at home were the news' topic. "Fire-proofing" was, however, sought after, and what was proof against fire was mainly shutters sheathed with sheet iron. In 1816 a portable fire-extinguisher had attracted much attention in London. It was a cylindrical vessel, to be fixed to the back of the person using it, filled partly with a solution



of pearl ash, which volatilizes at a high temperature. Heavy air pressure was secured by forcing air with a pump into the remaining space and closing the inlet valve. By opening the inlet valve the fluid was, of course, projected upon the flame. As a rival to this, a "new patent fire machine," which appears to have been of simpler construction, was vended in Philadelphia in 1818.

At 11 P.M., January 28, 1819, the "old red stores" on the second wharf below Race street, on the Delaware front of the city, were destroyed. They were used at the time for cotton and hay pressing by William T. Elder, the owner.\* March 9, following, a striking fire spectacle was made by the burning at night of the Masonic Hall, on Chestnut street; the flames breaking through the roof, ascended quickly to the top of the wooden steeple and lit up snow covered roofs and streets as with a volcano torch. The loss was about \$35,000, upon which there was an insurance of \$20,000. Deficiency in the insurance was made up by various contributions. It was said that the fire began in a defective flue about 9 P.M.

There was complaint that fires in the districts or suburbs were of greater extent than they would have been if sufficient water could be had for their extinguishment, and further that the quarrels of fire companies for precedence delayed the necessary work at fires.

Besides the evidence of conflagration afforded by the growing uproar at the extinguishment of fires, the mayor's proclamation, offering rewards for detection of incendiaries, was the sign and accompaniment of frequent fire outbreak. There was, however, now beginning to be some doubt as to there being real cause for the recurring incendiary alarms other than the unknown origins of fires. One newspaper correspondent, in a communication signed An Old Citizen (Poulson's American Daily Advertiser, April 13, 1819,) noticed the greater occurrence of fires in winter than in summer as showing carelessness as the source. Passing from the matter of protection against fire occurrence to the subject of indemnification for fire loss, the correspondent referred to commented as follows:—

It is said, and I believe with too much truth, that the practice of insuring against loss by Fire, is far from being a general one; and that but a small proportion of the houses in Philadelphia are insured, and a much less proportion of the goods in stores and warehouses. This remissness in our citizens to protect themselves from the consequences of such accidents, is truly strange, especially when we see by the proposals of the Fire Insurance Companies that such protection is afforded for so small a premium. Three or four dollars will ensure one thousand from loss for a whole year!

The firemen appeared to be enough for the fires and the incendiarism, at least the Fire Association did not want any more rivalry in the department, and pronounced in this manner:—

*Fire Association of Philadelphia.*—At a meeting of the delegates held 9th month, 1819,

*Resolved,* That the President of this Association be requested to communicate to the Citizens through the public newspapers, the strong conviction entertained by this Association, that the establishment of any additional number of Fire Companies of any description, is not only useless and inexpedient, but highly injurious and dangerous to the public welfare, and the prosperity of the Companies already established.

CALEB CARMALT, Sec.

BENJAMIN THAW, President.

\* In reference to a cotton compressing machine introduced into Philadelphia in 1807, it was said that "by the use of two horses the power of 840 horses could be applied to nine square feet."

The year 1820 opened with threatenings of more than usual fire loss, or rather the fire havoc of 1819 was culminating. Early in February, Mayor Barker offered a reward for detection of subsequently convicted incendiaries. There were two or three instances of discovered incendiarism, and indications that the very alarm was suggesting incendiary work. The city councils doubled the number of watchmen as an extra fire guard. April 2, the maximum, so far, of Philadelphia conflagrations occurred. It was the burning of the theatre on Chestnut street—the first fire loss of the city in excess of one hundred thousand dollars. This marble edifice, 90 feet on Chestnut street and 150 feet deep, was wholly consumed with its contents. It was originally built in 1792 by a company associating under a tontine principle. The original cost of the building was \$135,000, and expensive improvements were afterwards made. At the time of the fire the theatre was under the management of Messrs. Wood & Warren, but the acting season had closed just previous to the fire, on the 29th of March. Mr. Wood, in his *Personal Recollections of the Stage*, as actor and manager, had something to say concerning the origin of the fire, as also the insurance on the building and the non-insurance on the contents, and what he says is here cited:—

The destruction was by many imputed to the malice of an incendiary. This charge is liable to much doubt, as being wholly unsupported by any probable evidence. . . . The corner of the building on Carpenter street, nearest to which the fire first appeared, had long been appropriated to the use of a fire company, and the latticed window of this apartment looked full upon the staircase of our theatre, which part of the building was first on fire; it is therefore more reasonable to believe, that during the frequent alarms of fire which occurred about this time, a spark might have fallen from the lanterns or torches usually hung upon the latticed window and smouldered for some time. . . . The occupants of the refectory immediately adjoining the engine house were annoyed the whole day by a strong smell of fire, without any one thinking to look in upon the theatre.

One of Mr. Wood's intelligence writing at a later day, after rejecting the common and always convenient suspicion of incendiarism, would be apt to decide as the conclusion of his inquiries (after collating all the facts ascertainable), spontaneous ignition to have been the cause of the fire. Flaming particles from the torches falling upon the stairway, might have dropped, still burning, upon rubbish underneath or near the stairway, but the igniting of the stairway itself from such cause does not seem to have been practicable, and self-igniting materials in a dark, slightly damp corner are rather suggested as the cause. The fire impoverished the managers, the stockholders owning the building only, or the "walls alone." An unequalled theatrical and musical library, imported scenery, a varied and extensive wardrobe, the fixtures for lighting, and expensive gas works,\* etc., were the property of the lessees. Mr. Wood said, in explanation of a seemingly imprudent neglect:—

Until within a few months of the disaster, we had been guarded by insurance to a considerable extent, but the frequency of fires, as well as alarms, rendered the offices reluctant to venture on the risk of theatres and certain dangerous manufactories; and while we were actually engaged in applications to different offices here and elsewhere, the policy

\* These gas works were under the supervision of Dr. Kugler, of the mercantile firm of Pratt & Kugler, who had constructed "lamps burning without wick or oil, illuminated with carburetted hydrogen gas on a new and improved plan"; such gas being probably produced from pitch. November 14, 1816, city councils adjourned early to witness the illumination of the theatre by the gas. Such "gas lamps" had been exhibited earlier in 1816 at Peale's Museum, in the upper part of the State House, and the gas was made under the stairway leading to the upper stories, for some months, when the city councils apprehending danger ordered the removal of such gas making.



expired. The stockholders were more fortunate, for their insurance fully covered their loss. I must add that notice had been given to them that the risk would be declined at the termination of the policy, which would have occurred in a month or two after the date of the conflagration.

Though "the policy," in the language of Mr. Wood, is vaguely indicative either of large line or reinsurance, his brief statement presents a view of the local fire insurance situation at the time.

There is thus shown the growth of a prohibitory list in a city when the fire jeopardy was at a minimum. *Avoid* rather than *rate*, a necessity of inexperience, became the result of a partial experience, ill apprehended, ill digested, and which stood apart from economic calculation.

Spontaneous ignition was at this time receiving some consideration, and the ignition of oat meal in a barrel in a closed kitchen, through its undergoing chemical change by absorption of moisture, was a point of scientific inquiry. The next largest conflagration in 1820 appears to have been the burning, October 26, of a brewery and its contents, situated in the rear of Market street, between Third and Fourth.

The Fire Association was incorporated March 27, 1820. It had served to extend somewhat the practice of perpetual fire insurance, and the fire outbreaks were stimulus to increased practice of general fire insurance, but in the general trade of the city there had come a reaction from the war stimulus. Manufactures were falling off. The census of 1820 exhibited extremely meagre figures for both capital and product value for 117 industries.\* Importations somewhat reduced native production, but branches not affected by importation depreciated with the others. Such condition was attended with depreciation in the price of real estate, and was unfavorable to the progress of fire insurance, otherwise tending to augment.

In its first decade the American had an average annual loss of less than \$5,000, such a small mean necessarily comprising a great diversity in the amounts of the annual losses. The first loss of the American was by the burning of Dr. Burgoyne's dwelling in Charleston, S. C., September, 1810, before an agent had been appointed in that city. The fire business of the Insurance Company of North America, the largest portion being mercantile risks, was proceeding with small volume of annual premium and low ratio of loss.

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\* Still at this time great manufacturing development had begun. As an example of this the following is stated: The old Governor's grain mill on Cohocksink creek had in 1760 become a mustard grinding mill. In 1793 James Davenport introduced into it machinery for spinning and weaving, for which he had received a United States patent in 1791. He engaged in spinning and hand loom weaving of flax, hemp and tow, using water power. A boy could spin in ten hours 97,333 yards of flaxen or hemp thread, using 20 to 40 pounds of hemp according to fineness, or could weave on the machinery 15 to 20 yards of sail cloth in the same time.

Afterwards—but remaining only until 1803-4—a calico printing establishment was moved here by John Hewson from the Delaware front of this section.

April 3, 1809, the mill land and water power, as part of the estate of Sarah Masters, was conveyed to Seybert, Craige, Marquedant and Huston. The last three demolished the old and built a new and larger mill, on same site and using same water power. Here they commenced with cylinder cards and throstle spinning machines and jennies, making cotton warp and filling yarns. The yarn was partly sold and partly woven outside of the mill on hand looms. The business was successful, being much favored by non-importation agreements of merchants, embargo and the war of 1812-15. As soon as they could be obtained, plain power looms were introduced in a new and much larger building erected in 1813, and other extensions were made in 1816 and the following years. In the first addition a steam engine was introduced. The Globe Mills, as then called, was the most extensive factory in Pennsylvania for nearly twenty years.



Another new proffer came from the American which abated in nothing its progressive spirit:—

Office of the American Fire Ins. Co.  
Oct 23, 1821.

It having been suggested that several Lots of Ground in the city have been Let on *Ground Rent forever*, at such rates, that if the Buildings erected thereon were *destroyed by fire*, the owners of the ground rents would, in many cases, be injured by the depreciated value of the Lots; and that a mode of insuring such owners in the full receipt of their rents for ever, would be desirable ;

All persons owning ground rents, under such circumstances, are respectfully informed, that they may have their interests therein insured to the full amount, at this Office, upon reasonable terms. MORTGAGEES may have their interests in the mortgaged property, insured in like manner.

EDWARD FOX, Sec'y.

On an extremely cold night, January 24, 1822, fire started in the building of the Orphans' Asylum of Philadelphia, corner of Schuylkill Sixth and Cherry streets. It was a three-story brick structure, 50x53 feet, completed in 1817. Fire originated in the north-west corner of the kitchen, in the basement, from the improper arrangement of the masonry in which the boiler was placed. So rapid was the burning that twenty-three orphans perished in the flames and through exposure. Building cost \$20,300, contents \$3,000—the insurance was for \$6,000. A few weeks later, February 12, a soap factory and four dwellings, Budd street, near Poplar lane, were totally consumed. An account of the fire said: "The distance of the neighborhood from the city hydrants rendered it impossible for the hose and engine companies to procure water in time to save the property thus unfortunately destroyed."

Secretary Edward Fox, of the American, died in 1822. His characteristics as an underwriter have been indicated. Upon his death Captain William Jones returned to official duties in the company as Mr. Fox's successor in the secretaryship. Secretary Jones in 1823 issued a leaflet in part treating of premiums and fire hazards, which was in keeping with the very best information which existed on the subjects at the time, and in respect to the hazard of cotton manufacturing gave some new information, viz.:—

#### CONCERNING THE RATES OF PREMIUMS.

The risks deemed hazardous, are so various in degree, from the difference in their situations and circumstances, that it is impracticable so to class them as to define the premiums applicable to each particular case; but the following statement may suffice to convey a general idea of the annual rates for ordinary risks.

I. In the City of Philadelphia, where the elevated source of water is inexhaustible, and the organization for extinguishing fires of the most efficient kind; the following rates are charged viz.

On good Fire-proof Warehouses containing goods not hazardous; 25 Cents per 100 Dollars. On good brick stores, and dwelling Houses, containing goods not hazardous; 30 Cents per 100 Dollars.

On a good detached Frame building, occupied as a private dwelling, or containing goods not hazardous, 75 to 100 cents per 100 Dollars according to situation.

II. In the Country:—On a good brick or stone House, detached, and occupied as a private dwelling, or containing goods not hazardous; 40 Cents per 100 Dollars.

On a good Frame House detached, and occupied as a private dwelling, or containing goods not hazardous; 75 Cents per 100 dollars.

On a Stone Barn having a Lightning-rod, and on the Stock therein; 75 Cents per 100 dollars.

On a Barn part brick or stone, and part wood, having a lightning rod, and on the stock therein; 87½ Cents per 100 Dollars.

On a frame barn having a lightning rod, and on the stock therein 100 cents per 100 Dollars.

On Merchant and Grist Mills, and the gearing Machinery and Stock, therein; 75 to 100 Cents per 100 Dollars.

On Cotton Mills 1¾ to 3 per Cent.

On Woolen Mills 1 to 1½ per Cent.

III. In Towns and Villages inland, The premium on a good brick or stone House occupied as a private dwelling and sufficiently detached to be out of danger from other buildings, is the same as on those in the Country, that is to say, 40 Cents per 100 Dollars, but where it adjoins or is within the hazard of other similar buildings the premium will be 50 Cents per 100 Dollars, and so in proportion for buildings constructed of or containing hazard materials.

#### COTTON MANUFACTORIES.

The exemption of these establishments from conflagration depends less upon even the best mechanical safe-guards in their construction and arrangement, than upon a well organized system of management, combining vigilance, cleanliness, order and discipline. Without these the highest possible premium would be inadequate to the risk. Gunpowder itself is not so inflammable as the atmosphere of a Cotton Mill where the waste and dust of the staple are suffered to accumulate from day to day amidst numerous lamps or candles which may be presumed to be managed with equal negligence.

But when the building and machinery are properly constructed and arranged the several apartments warmed and lighted by proper instruments with due care, and a well ordered system of management is faithfully executed; they may be insured with advantage to the proprietor and reasonable security to the assurer.

This species of insurance therefore, requires a more ample investigation of the nature of each particular risk, than ordinary subjects of insurance; and it is no less the interest of the careful proprietor to demonstrate the superior safety of his establishment in order to abate the premium, than it is that of the assurer, in order to avoid a hazard, the extent of which he might not otherwise foresee.

With those precautions Cotton Manufactories that are in good order and well regulated may be insured on reasonable terms to any amount not exceeding Ten Thousand Dollars on any one factory; and establishments upon a moderate scale are preferred.

A survey for this purpose may be taken by any two reputable disinterested persons who are acquainted with the premises, and with the nature of the business, and whether for insurance on building or machinery, must contain the description and explanations required by the following particulars (which may be modified to suit the case of Woolen or other manufactories) and be attested by the affidavit of the surveyors and the signatures of the principal or agent by whom the application for insurance is made.

I. A ground plot sketch of the premises, and of the buildings within fifty yards of the factory, which with suitable marks of reference indicating the nature and occupation of these, may serve to abridge and simplify the description.

II. The situation:—On what stream, in what town, or township, or how far distant from the nearest town, public landing or other well known place.

III. The building:—Its dimensions and number of floors of what materials the walls or sides and roof are constructed, whether the several apartments are plastered on the sides and over-head or how otherwise, and how the rooms are severally occupied.

If the building is the subject of insurance a more particular description of the materials and workmanship employed in the several apartments and a statement of its existing value will be required.

IV. How the several parts of the building are warmed: Whether by steam, or by air heated by a coal fire in a furnace within the cellar or basement, and conducted by funnels or tubes through the several apartments, and how these are constructed and the several floors through which they pass protected; or, whether by means of cast iron stoves and wood fuel, and how the floors and other parts of the building are defended against the heat of the stoves and pipes and whether the fires are in charge of a particular individual or what other precautions are observed in regard thereto.

V. What kind of lights are used in the factory, how and where they are fixed, what precautions are observed in lighting and trimming them, and how they are covered or secured.

VI. Whether any machinery is made or repaired within the building, or any other manufacturing or mechanical branch of business carried on therein.

VII. What kind of Picker is used, where it is situated how many revolutions it is estimated to perform in a given time, what precautions are taken to guard against fire by the friction of its parts, and whether any lights or Fireheat are ever admitted into the picking room.

VIII. What kind of dressing machine is employed, where it is fixed, and whether there is any fireheat about it.

IX. What means are provided or at command for extinguishing fire, as well within, as without the building.

X. Whether there is a watch employed to guard the factory, within or without, during the suspension of labour or whether the building is locked up and unguarded through the night.

XI. Whether the building is kept clear of waste cotton and where the waste is deposited.

XII. Whether the chief manager is a proprietor, or disinterested agent, and what are his qualifications and experience.

XIII. Whether the building and machinery are both owned by the same person, or whether either are leased or under any incumbrance.

XIV. Whether spirituous liquors and smoking are prohibited.

XV. Whether the building has a lightning rod, and is enclosed by a wall or fence.

XVI. If machinery is the subject of insurance it will be necessary to designate the kind, and state the time it has been in use, and an inventory and estimate of the existing value thereof as the same may be distributed in the several apartments, will be required to be annexed to the survey.

XVII. In order to effect insurance at this office, it must be distinctly understood and agreed, that the operation of all the machinery and labour of the factory is to cease and be suspended, and the fires and lights extinguished or securely covered, during the usual hours of rest at night in similar establishment, and the interval of rest in the different seasons must be stated in the survey in which will also be required a brief account of the general system of management as it may affect the hazard of fire.

*Office of the American Fire Insurance Company,  
September 16th, 1823.*

W. JONES, Secretary.

The incendiary alarms of 1820 were revived in the latter part of 1822, and further continued. As the period was without a public fire account, as well as a public insurance account, we give a private collection of fire figures for four years, enumerating only 96 fires. It was a table appearing in Poulson's American Daily Advertiser, as part of a communication signed A Fireman, and was part of local pride vaunting itself above the smell of the smoke and fire upon the garments of its neighbors.

*Number of Fires in each Month in Philadelphia in the following years:*

	1821.	1822.	1823.	1824.	Total.
January, . . . . .	0	1	3	1	5
February, . . . . .	3	2	7	2	14
March, . . . . .	4	1	4	5	14
April, . . . . .	4	1	4	3	12
May, . . . . .	3	2	4	0	9
June, . . . . .	4	0	3	0	7
July, . . . . .	3	1	2	0	6
August, . . . . .	0	2	2	1	5
September, . . . . .	2	3	1	0	6
October, . . . . .	3	3	0	0	6
November, . . . . .	2	2	0	0	4
December, . . . . .	1	4	1	2	8
	—	—	—	—	—
	29	22	31	14	96

The fires which happened in the latter part of 1822 and the beginning of 1823 were generally supposed to be the work of incendiaries. The only fires of consequence which occurred during the year 1824 are two—March 29th, in Front, above Arch street, and April 18th, in Second, below Market street. Will not the New Yorkers give an account of the fires which have happened in their city during the same period?



There were 32 fire engine companies and 14 hose companies in 1824, against 35 of the former and 9 of the latter in 1810. In this period the population of the city had increased about 30 per cent., the buildings in nearly the same ratio, but the aggregate wealth of the community in a much smaller ratio. There was an absence of the friction of the impetuous, aggressive, tumultuous, and crowded progress which makes conflagrations. However the fire enumeration here quoted may have fallen short of the actual fire occurrences in the "city and liberties," there appears to have been a decrease in ratio and, perhaps, even in number of fires. Another statement gave this account: "In 20 months, 1823 to 1824, the number of fires which occurred was only 23, the amount of loss \$89,550"; but to have all the fires occurring in twenty months burning an average of \$3,894 was rather significant of the ultimate fire destruction of the metropolis of the State, and seems to require a greater number of fire outbreaks to diminish this high mean of combustion.

From a small volume entitled Philadelphia in 1824, the following is extracted:—

It has frequently been remarked that destructive fires occur less frequently in Philadelphia than in any other city of the United States. And in point of fact, destruction by fire to the extent even of a single building rarely occurs here. . . . .

The comparative exemption of Philadelphia from loss by fire may also be attributed [*i. e.* in addition to the introduction of the Schuylkill water] to the zeal and activity of her citizens, who labour assiduously to put a stop to the ravages of fire. In Philadelphia there are no hired or professional firemen as in many other cities.

There was a change afterwards in opinions as to the comparative merits or defects of the volunteer and the paid fire department, but all opinion not resting on mathematical or scientific demonstration has its season in which to live and die.

In 1824, Ralston & Lyman, South Front street, were offering the fire insurance they would procure on "houses and stables, in town or country; houses and stores, building or repairing; cotton, woolen, and all other factories; dye houses and sugar refineries; breweries, distilleries, bake houses, and taverns; carpenters', cabinet, and coach-makers' shops; printing offices, book binderies, and sail lofts; gun, lock, and silver smiths' shops; work-shops of boat-builders, block-makers, coopers, chair-makers, musical instrument makers; painters, confectioners, chemists, founders, &c.; merchandize and furniture; stock in trade, of books, prints, pictures, looking-glasses, &c. . . . ."

This firm subsequently pressed upon the public the inducement there existed for fire insurance in the cheapness of 25 cents as the rate on household goods, and of two other indefinite rates on merchandise stocks. The information to the public was imparted by the following note in an advertisement:—

N. B. The very low rates at which indemnity for losses by fire may be had, cannot be generally known, or few, or none would remain uninsured. For \$10 to \$20 Stocks in trade of considerable value, may be insured for one year, and for \$5 or less a person may secure on his goods or furniture \$2000.

In September, 1825, William Craig began as agent of the Protection Fire Insurance Company of Hartford. This company, with a paid-up capital of \$150,000, had just been incorporated, and evinced a capacity in its management

which was a promise of stability. C. F. Sibbald, as agent of a Traders' Insurance Company, was ready to "effect insurance in any part of the United States or Canada" against loss by fire. Monthly fire risks on merchandise and other property were taken by Mr. Sibbald.

In the drift of changing practice as to short rates and long rates—the year being the unit of premium time—as rates were long they decreased in capricious annual proportion to length of term. Thus, annual fire premium being 80 cents, for three-year insurance the rate was 71 cents per year; for seven-year insurance the rate was 68 cents per year. If rates were short, they increased in capricious proportion to the shortness of the term. So, the insurance for twelve months being 80 cents, the rate for eleven months was more than eleven-twelfths of the annual rate, and for one month was about three-twelfths of the annual rate. The usage, however, was varied, but the tendency was general to make a very short term very large in proportionate charge to the comparative time represented. As between annual and short rates, the expense of effecting an insurance—in large degree a fixed, not relative, quantity—was to be considered. Amount of premium also varied the calculation.

While Philadelphia was a comparatively fire-exempt city, the largest fires were matter of general comment, the subject of nearly everyone's talk. Deposit fire insurance was shown to be safely available in annual account for city buildings where the report of the surveyor justified the assumption of the hazard. The survey as both description and inventory, in respect to materials, construction, dimension, situation, and exposure, was subscribed to by the applicant, and was the risk as assumed. Such survey was at a fixed charge to the policy receiver. Perpetual risks were also taken in few instances on brick and stone buildings in Delaware and New Jersey, as being "near the city." When more than two or three miles from the city, or out of the district of the office surveyor, the party applying had to provide a "competent" person to examine the building—a builder being presumed to have the competency in the highest degree—and if required, such extemporized surveyor should make oath or affirmation before a magistrate as to the "truth" of his survey.

Comparing 1825 with 1820, the excepted term fire hazards under the influence of the freer writing of the agency companies were lessening. The Insurance Company of North America characteristically, however, kept mainly in the mercantile quarters, but the American was adventuring upon almost every phase of the fire hazard. It accepted wooden dwellings as term risks, also barns and outhouses of the same material, and mills and factories of all classes. As a general rule it issued policies "upon every species of property—books of account and obligations and ready money excepted"; and in town or country. Orders for out-of-town insurance were to be accompanied with an accurate description of the property and a reference to some respectable citizen.

A bill passed to incorporate the Pennsylvania Fire Insurance Company of Philadelphia, founded by Jonathan Smith. The act was approved January 26, 1825. This was the charter of the second exclusive Philadelphia fire office

organized to engage in fire insurance in general. In the consideration of the bill, amendments were offered imposing or specifying taxation upon the capital, dividends, etc. (The charter of the American exacted a State tax of one per cent. on the capital in event of stockholders' annual dividend being in excess of nine per cent.) But, instead of such special taxation, a committee was directed to prepare a bill for taxing all insurance companies, and this particular bill of incorporation was passed as originally framed. Charter was perpetual, capital \$400,000, shares \$100 each. There were usual restrictions as to stockholders. In respect to voting, 25 votes were the maximum allowed to any one person, and 100 shares were all that could be owned by one person, such person being a citizen of or resident in the United States. Below such figures there was one vote for five or less shares, two votes for nine or less shares, and thereafter an increase of two votes for every five additional shares up to fifty. The first board of directors, as named in the charter, was composed of—

Jonathan Smith,  
R. A. Caldcleugh,  
William Boyd,

Thomas Kittera,  
Henry Toland,  
David Correy,

Paul Beck, Jr.,  
John H. Stevenson,  
John R. Neff.

R. A. Caldcleugh was elected president, and Jonathan Smith secretary—John McCauley taking Mr. Smith's place in the directory.

The new enterprise was in favor. When the first instalment of ten dollars per share was all paid in, February 16, the stock commanded a premium in the market of 10 per cent. on such cash payment; and the Pennsylvania took the field at the close of February against about all the fire there was in it. It advertised for orders for insurance from any part of the United States, and its list of risks embraced houses, manufactories, or other buildings, and goods, wares and merchandise therein; vessels upon the stocks, building or repairing, or at moorings, or lying in port, and goods, wares, merchandise and effects therein; hay, grain, and other agricultural products in barns, stacks, or otherwise; and made permanent or limited insurance on houses, barns, and other buildings of brick or stone.

The second 10 per cent. instalment on the capital stock was payable May 10, 1826.

When the Pennsylvania began, the signs of the times were pointing to the after predominance of fire over marine insurance, though the indications were yet slight.



## CHAPTER V.

*Subscribed Capital of the American Fire to be paid up—Three of the Fires of 1827—The Expulsion of the Agencies of Other-State Companies—Charles N. Bancker founds the Franklin Fire Insurance Company—First Perpetual Policy and Earliest Rates, Insurances and Business of the Franklin—The Power-Planer and Sugar Refinery Risks—Fire Loss in 1830—The Matter of Wooden Buildings and Schuylkill Water Supply—First Agency of the Franklin—City Ordinance of June 8, 1832—Fires and Cholera—District Fire Insurance Companies—Organization of the Fire Insurance Company of the County of Philadelphia—The Fire Hazards of the City and the Fire Insurance Position—The Fire Association celebrates, and is reincorporated—Fire Policy 17,040, Insurance Company of North America—Organization of the Southwark Fire Insurance Company and the Spring Garden Fire Insurance Company—Change in Fuel and Illuminants—Introduction of the Carburetted Hydrogen Illuminating Gas—The Illuminating Gas not in the Opinion of Insurers an Increased Fire Hazard—Non-Insurance Apprehensions as to the Carburetted Hydrogen Gas—The Friction Match—Fire Loss increasing in 1835—Municipal Regulation of Furnaces and Furnace Chimneys for Steam Engines—A Great New York Conflagration and its Insurance and Legal Sequences—Great Loss in Philadelphia upon a Mercantile Risk—Professional Fire Loss Adjustment—Pennsylvania Supreme Court Interpretation of the Fire Policy begins—Misdescribed Risk, not so intended, rectified by Parol Evidence—Insurance Stock Capital not an Ante-Panic Inflation—Remaining Unpaid Subscriptions to Capital of Pennsylvania Fire, payable—The Insurance Companies and the Panic of 1837—Renewal Endorsement without Seal and Contract a Specialty—The Fire Association authorized to engage in General Fire Insurance—The Contributionship of Bucks County—Agency of the Delaware County Insurance Company—Attempt to organize the Exchange Insurance Company—Firing and Burning of Pennsylvania Hall—Policy of American made Renewable, per se—Theories of Profit to Policyholders—Organization of the Columbia Insurance Company—Cash Premium with "Mutual Assurance Bond"—The Conflagration of October 4-5, 1839—Concentration of Combustible Values. (1826-1839.)*

THE Pennsylvania Fire Insurance Company being fairly in the field, the directors of the American Fire (Joseph Reed then president, and Job Bacon secretary,) passed a resolution calling upon the stockholders for payment of the remaining 60 per cent. subscriptions to the \$500,000 capital stock, in three payments, due respectively the fifth of May, June and July, 1827.

Conspicuous fires of 1827 have been thus noted:—

Among the fires which occurred in this year of more than usual importance was one on Water street between Market and Chestnut, on the evening of February 3d. The principal sufferers were John H. Ohl, importing merchant; William Cummings, a grocer; and other tenants and owners adjoining. The loss was heavy.

A fire broke out in Southwark about the 20th of June at the corner of Fourth and Plum streets, which was the most severe that had happened for some years in that District. Twenty-three dwelling houses were destroyed, and the number of persons rendered houseless was about two hundred. A meeting was held in the District shortly afterward, and committees were appointed to take up subscriptions for the benefit of the sufferers.

The printing-office of Jesper Harding, at No. 30 Carter's alley, was burned November 21st. From the inflammable character of the paper and stock it was very destructive. The loss was estimated at from \$17,000 to \$22,000. (Westcott's Hist. of Phila., in Sunday Dispatch, ch. 864.)

The act of April 23, 1829, terminated the agencies of other-State companies, as the law of 1810 had terminated the agency of the Phoenix, of London, and the fire insurance business in the territory of Pennsylvania was given up to the State created corporations—at least so far as the insurance should be openly or publicly pursued.

Charles N. Bancker has been incidentally referred to in the previous chapter. He now came forward to become a conspicuous force in the development of the fire insurance practice of the city. Mr. Bancker had been a large importing merchant, and there is a tradition that he had, as the office correspondent, effected insurance of Philadelphia risks in a London office early in the century. He had also, as stated, connected himself with the first effort to found and establish public life insurance in the United States. His life had two distinct and well defined sides: on one side he was a philosophical student, on the other an energetic man of business. Benjamin Franklin was the great representative name in American physical science, and Franklin was associated with the founding of the first fire insurance office in the colonies, and his name was incidentally connected with the ratings of the deferred life annuity benefits practiced in colonial times. Thereupon Charles N. Bancker proposed to found a fire insurance company to be called the Franklin. About 900 buildings for divers occupancies were now the annual addition to the city's structures, and the Franklin would be but the third Philadelphia office limited to fire insurance and accepting the various subjects of fire hazard. The charter of the Franklin Fire Insurance Company of Philadelphia was approved April 22, 1829; capital \$400,000—shares \$100 each. Books for receiving subscriptions to 2,000 shares of the capital stock were opened May 13. Such subscription having been duly made, June 8 the following directory was elected by the shareholders:—

Richard Willing,  
James Schott,  
Samuel W. Jones,

Thomas Hart,  
Henry C. Carey,  
Thomas I. Wharton,  
Tobias Wagner,

Charles Roberts,  
Levi Ellmaker,  
William Chaloner.

At the meeting of the directors so chosen, Samuel W. Jones was elected president, and Charles N. Bancker secretary. Mr. Jones declining, the presidency was conferred upon Richard Willing. The Franklin was ready for business June 25, with the payment of 10 per cent. on its subscribed capital, at its "office 163½ Chestnut street, third door below Fifth street." The two fire offices founded in the third decade of the century were similar in chartered features, in financial construction, and in business scope, but the master spirit of the Franklin most aimed, in the days of his energetic manhood, at the largest volume of business as the great essential of insurance security and insurance profit.

The second instalment of 10 per cent. on the subscribed stock was paid in, August 9–14. Meanwhile the issue of policies had begun. The first perpetual policy was executed July 20; the application for the first temporary insurance

was received next day. The terms of the perpetual policy described perpetual insurance as to the form it had then reached, at least in joint stock companies, and changes are indicated by comparison with perpetual policy No. 1 of the Fire Association, which has been cited (*ante* 331). The formal policy—the contract to insure generally—had become brief; the particular insurance rested upon “terms and conditions hereunto annexed.” By experience, general risk discrimination had been enhanced; with more specific classification. The cooper\* had become estimated a less risk than the carpenter and baker, *under equal conditions otherwise*; sulphur and saltpetre less than hay and straw; and the windsor chair maker less than the musical instrument maker, etc.

## FRANKLIN FIRE INSURANCE COMPANY OF PHILADELPHIA.

No. 1.

PERPETUAL.

\$2000.

This Policy of Insurance witnesseth that the Franklin Fire Insurance Company of Philadelphia Have received of *Alexander Henry* Fifty Dollars ——— Cents, by way of Premium or Deposit (according to the terms and conditions of the said Company, hereunto annexed) to indemnify the said *Alexander Henry* from all damage or loss which *he* may sustain at any time after the date hereof (not exceeding in any case, the sum or sums hereafter recited) by reason or by means of Fire happening to the property herein described—to wit

*On a Brick Dwelling House—three stories high, No. 65 North Second near Arch Street, 16 feet front by 28 feet 6 inches deep, and Brick Back Building two stories high, 11 feet by 41 deep—*

In conformity with survey No. one signed by *Alexander Henry* the assured, and deposited in this office.

Now Know All Men by these Presents, That in consideration of the premises, the Capital Stock, Estates and Securities of The Franklin Fire Insurance Company of Philadelphia, shall be, and remain forever, subject and liable to pay, make good and satisfy unto the said insured, *his* heirs, executors, administrators or assigns, all such damage or loss, not exceeding the sum of *Two Thousand* dollars, which may at any time hereafter happen by reason or by means of Fire, to the property herein before described, unless the said Company shall, within twenty days after the proof of such damage, if the loss be not total, give directions for putting the same into as good a state of repair as it was in before it was so injured by Fire; or shall, within thirty days after such proof, pay for such damage according to an estimate thereof to be made by arbitrators indifferently chosen; or if a total loss, shall, with all convenient speed, rebuild the same, or pay the estimated value of such property at the time of such total loss, within ninety days after the amount shall be ascertained by arbitrators indifferently chosen.

In Witness Whereof, The Common Seal of said Company, is hereunto affixed, [L. S.] this *twentieth* day of *July* in the year of our Lord One Thousand Eight Hundred and *Twenty-Nine*.

RICHARD WILLING, President

C. N. BANCKER, Secretary.

TERMS and Conditions By The Franklin Fire Insurance Company of Philadelphia, For The Making of Permanent Insurances On Buildings.

- I. Every person making insurance on any Building shall deposite with the Company, a certain sum for every one hundred dollars insured, according to the greater or less hazard of the Building, and shall pay for the Policy and for surveying the premises, the sum of three dollars.
- II. Every Policy issued in the nature of a permanent insurance, shall continue in force for so long a time as the deposite money shall remain with the Company (subject nevertheless to the other parts of these conditions); but any person insured, being the owner or proprietor of the Building insured, may, at any time reclaim his or her deposite money, which shall be paid, within three days after such demand, subject to a deduction of five per centum. And in all cases of sale of the property insured, where the Policy is not transferred, the deposite money may be withdrawn, if applied for within

\* Subsequent legislation repealed so much of the act of February 6, 1730, for the prevention of accidents that might happen by fire in bake houses and cooper shops, as applied to cooper shops.



sixty days after such sale, subject to a deduction of five per centum; but if not applied for within that time, the said deposit money shall be considered as sunk for the benefit of the Company.

- III. In case any insured shall assign or transfer his or her Policy, such assignment or transfer shall be brought to the office of the Company to be entered and allowed, within thirty days next after such assignment or transfer, and in default thereof, the benefit of the insurance, and all claims upon the Company shall be lost. For every transfer of a Policy, there shall be paid fifty cents.
- IV. The sum insured on one Building and the contiguous Buildings on the same lot, may be insured in one Policy; but there shall not be insured in one Policy a greater number of Buildings than are erected on a single lot.
- V. No loss or damage shall be paid for, on Fire happening by any invasion, foreign enemy, civil commotion, riot, or any military or usurped power whatever.
- VI. A survey of the Buildings intended to be insured, shall, if within two miles of the City of Philadelphia, be made by a person employed by the Company, which shall be signed by the party applying for such insurance: And in case the Building is more than two miles from the City, a survey shall be made, at the expense of the party applying, by some competent person, who shall make oath of the truth thereof, before some magistrate of the district where such Building is situate, which survey shall also be signed by the party.
- VII. If any Building insured by this Company, be already insured, or shall hereafter be insured by any Policy issued by this Company, or by any agent thereof, or by any other Insurance Company, or by any private insurers, or otherwise, such insurance must be made known at the office of the Company, and mentioned in, or endorsed upon the policy, or otherwise the Policy shall be void.
- VIII. Every person insured by this Company, who shall sustain any damage or loss by Fire, shall give immediate notice thereof to their Secretary, to the end that the officers or agents of the Company may view and inquire into the same: And in all cases of partial loss, the Company shall repair the same with all convenient speed, or pay the estimated value thereof, within thirty days after the amount is agreed upon by both parties, or otherwise ascertained, provided such estimate shall not exceed the sum insured on that part of the Building so damaged; and in case it exceeds such sum, the amount insured only shall be paid: And in all cases of total loss of any Building, the Company shall rebuild the same with all convenient speed, or pay the estimated value of such Building, at the time of such total loss, within ninety days after the amount shall be agreed upon by both parties, or otherwise ascertained, such amount not being greater than the sum insured.
- IX. The following risks being considered more hazardous than others, Buildings intended to be occupied by persons carrying on any of the undermentioned trades or business, or in which any large quantities of the undermentioned goods are deposited, will be subjected to an extra premium on that account. No Policy therefore will be construed to extend to such risks unless liberty be given for the purpose and expressed thereon.

## SECTION I.

Academies and School Houses.  
Apothecaries and Druggists.  
China, Glass and Queensware.  
Corn and Grain.  
Flax and Hemp in bales.  
Groceries and Liquors.  
Lumber of all kinds.  
Naval Stores and Ship Chandlery.  
Oil and Paints.  
Prints, Pictures and Looking Glasses.  
Saltpetre and Sulphur.

## SECTION II.

Book-binders.  
Boat builders.  
Coopers.  
Chair-makers, windsor.  
Printers.  
Type founders.  
Turners.  
Taverns, oyster cellars, and eating houses.

## SECTION III.

Aqua fortis and Vitriol in quantities.  
Brewers and Maltsters.  
Bakers.  
Carpenters.  
Cabinet and Musical Instrument Makers.  
Chandlers, Soap and Tallow.  
Chymists.  
Coach and Carriage Builders and Wheelwrights.  
Distillers.  
Flax and Hemp, loose.  
Gunpowder.  
Hay, Straw and Provender.  
Mills and Manufactories of any kind.  
Rope Makers.  
Sugar Refineries.  
Stables, public or private.  
Tallow, melters of.  
Varnish and Oil, boilers of.

The first temporary policy was a builder's risk, and was issued upon the following order:—

1829  
July 21  
Nov 21  
1829

TO THE FRANKLIN FIRE INSURANCE COMPANY OF PHILADELPHIA:

Make insurance for the space of Four months against loss or damage by fire on Seven unfinished Four Story Brick houses situated on the South West corner of Fourth and Walnut sts; upon which property Five thousand dollars are already insured at the office of The Pennsylvania Fire Insurance Company.

Sum to be insured Dollars \$5000 @ 30 cts. per 100\$. 15 Dolls.

MATHEW CAREY,  
per H. C. Carey.

By the close of 1829 the Franklin's premium receipts were \$7,764.95—temporary premiums \$4,322.55, perpetual deposits \$3,442.40. No losses were paid during the first six months. The total amount insured by term policies in these few months was \$1,114,200—\$1,023,800 on Philadelphia risks, and \$90,400 on out-of-town Pennsylvania and other-State risks—the amount of the last being \$75,500. Of the Philadelphia temporary risks \$749,000 were yearly, \$249,100 short term, and \$25,700 long term. Included in the short-term policies were \$69,100 builders' risks—the latter a sign of an important part of the Franklin's future work.

As the scope of the term fire premium rate was, in 1795, from 30 cents to 75 cents per \$100 insured per annum, apart from extra charges for excess lines, it was now from 20 to 200 cents, and large lines rather sought than prohibited. We give the insurances of the Franklin according to its scale of ascending hazard in the last six months of 1829:—

PHILADELPHIA ANNUAL FIRE RISKS.\*

Rate.	Insurantee.	Number of Risks.	Minimum Policy Amount.	Maximum Policy Amount.	SUBJECT.
20 cts	\$95,000	5	\$15,000	\$25,000	Merchandise.
22	167,000	12	5,000	a 35,000	Merchandise.
24	33,000	4	2,000	b 15,000	Merchandise, Tin-stock, Brick and Frame Building.
25	129,400	28	800	c 10,000	Household Furniture, Merchandise, Books and Furniture, Furniture Storage, Dwelling, Brick Store, Hat Store, Upholstery, Groceries (wholesale), Dwelling with Cooper Shop basement.
27 ½	5,000	1	. . . . .	. . . . .	Drugs.
28	22,000	2	10,000	12,000	Merchandise.
30	62,900	18	500	d 14,000	Store and Dwelling, Dwelling, Household Furniture, Printing Office, Book Store, Liquors with rectifying, Sail Loft, Merchandise.

\* Risks in 1829 were not, of course, as in subsequent years; the larger carpenter shop was an increasing jeopardy up to introduction of the power-planer, cylindrical and circular, and the sugar refinery, always a misunderstood hazard, has undergone a variety of transitions in respect to fire liability, and while the vacuum pan has lowered the temperature of evaporation, and escaping vapors have been controlled to supply heat, clarification has proceeded upward through augmenting ignitive chemical conditions.

The following are some examples of the annual rates of the Franklin in 1830, from 50 cents to the highest point: Stables, 50; paper mill (Darby creek), 60; lumber yards, 60; rolling mill, 60; sugar refinery, Bread street, 75; piano-forte manufactory, 150 Chestnut street, 80; cotton mill, 90; glue and curled hair factory, 100; white lead works, 100; brew house, 100; sugar refinery, 125; hat factory (frame), 125; cotton and woolen mill, 125; steam distillery, 125; steam print works, 125; steam saw mill, 150; woolen factory, 150; cotton factory, Allegheny, Pa., 175; print works, 200; steam cotton mill, Baltimore, Md., 200; frame carpenter shops, 200.

Rate.	Insurance.	Number of Risks.	Minimum Policy Amount.	Maximum Policy Amount.	SUBJECT.
32 cts	\$5,000	1	. . . . .	. . . . .	Dwelling.
35	33,500	8	\$750	<i>e</i> \$12,000	Brick and Frame Dwelling and Paint Shop, Bottler, Printing Office, Chemical and Philosophical Apparatus, Drugs, Dwelling, Merchandise.
37½	3,500	2	1,000	<i>f</i> 2,500	Book Bindery, Carpet Manufactory.
40	9,350	6	850	<i>g</i> 2,000	Grocery Store, Tavern Contents, Brick Building.
45	5,500	2	1,500	<i>h</i> 4,000	Stove Store, Grocery Store.
47½†	15,000	1	<i>i</i> 6,000	<i>j</i> 9,000	Jewelry Manufactory.
50	57,850	17	400	<i>k</i> 15,000	Machine Shop, Hotel Furniture, Frame Chair-maker Shop, Frame Dwelling, Brick and Frame Dwelling, Frame Grocery Store and Dwelling, Hat Store, Merchandise, Chemical and Philosophical Apparatus.
55	10,000	1	. . . . .	. . . . .	Print Works.
60	8,300	3	800	<i>l</i> 5,000	Goldbeaters' Stock, Hotel, Frame Vinegar Factory.
70	1,500	1	. . . . .	. . . . .	Frame Tavern.
75	36,400	7	400	<i>m</i> 10,000	Contents of Barn, Frame Paint Mill, Sugar Refinery, Grist and Bark Mill, Machine Shop, Paper Mill, Dwelling with Cabinet Making.
90	6,000	1	. . . . .	. . . . .	Soap and Candle Factory.
100	5,200	7	300	<i>n</i> 1,500	Frame Carpenter Shop, Frame Dwelling (in row), Bark on wharf, Frame Blacksmith Shop and Stable.
125	31,000	5	1,000	<i>o</i> 10,000	Cotton Mill, Cooper Shop.
150	18,100	4	600	<i>p</i> 10,000	Cotton Mill, Cotton and Grist Mill, Soap and Candle Manufactory, Frame Dwelling.
175	2,000	1	. . . . .	. . . . .	Steam Saw Mill.

† Average.

*a* Hardware. *b* Merchandise. *c* Merchandise, etc. *d* Merchandise. *e* Drugs. *f* Carpet Manufactory. *g* Tavern Contents, etc. *h* Stove Store. *i* Finished Stock at 62½. *j* Machinery, Tools and Material at 37½. *k* Store and Dwelling. *l* Hotel. *m* Sugar Refinery. *n* Frame Blacksmith Shop and Stable. *o* Cotton Mill. *p* Cotton Mill.

## PHILADELPHIA LONG-TERM RISKS.

	Insurance.	Term.	Rate.
Frame Dwelling, . . . . .	\$ 200	7 years.	360 cts.
Country Flour Mill, . . . . .	1,000	7 "	300
Brick and Frame Dwelling and contents, . . . . .	1,500	7 "	250
Sugar Refinery, . . . . .	15,000	2 "	160
Brick Dwelling, . . . . .	800	7 "	180
Frame " . . . . .	600	7 "	360
Brick " . . . . .	400	4 "	100
Frame " . . . . .	1,500	7 "	400
" " . . . . .	1,500	7 "	360
" " . . . . .	1,000	7 "	360
Brick " Chester, . . . . .	1,000	3 "	100
" " . . . . .	300	2 "	60
" Cabinetmaker Shop, . . . . .	600	2 "	140
Furniture, . . . . .	300	2 "	50
	\$25,700		

## PHILADELPHIA SHORT-TERM RISKS.

	Insurance.	Term.	Rate.
24 Builders' risks,* . . . . .	\$69,100		
Brick Building, . . . . .	4,000	3 mos.	12 cts.

\* Time ranging from two weeks (5 cents) to nine months (60 cents); one month, 10 cents; two months, 20 cents; four months, 30 cents; five months, 35 cents; six months, 45@50 cents.



	Insurance.	Term.	Rate.
Dwelling, N. J., . . . . .	\$2,000	6 mos.	45 cts.
" Brick and Frame, . . . . .	1,000	6 "	25
Books and Stationery, . . . . .	20,000	3 "	7 ½
Merchandise, . . . . .	7,200	6 "	12 ½
" . . . . .	12,000	1 "	3 ½
" . . . . .	6,000	6 "	12 ½
" . . . . .	10,000	6 "	12 ½
" . . . . .	12,000	2 "	7
" . . . . .	6,000	2 "	7
" . . . . .	10,000	1 "	3 ½
" . . . . .	3,000	1 "	3 ½
" . . . . .	10,000	1 "	3 ½
" . . . . .	40,000	4 "	10
" . . . . .	6,000	1 "	3 ½
Liquors, . . . . .	10,000	4 "	15
Vessel in port, . . . . .	2,000	2 "	14
" " . . . . .	4,000	1 "	10
Bark on Wharf, . . . . .	600	1 "	16 ⅓
Quicksilver, Custom House, . . . . .	13,000	6 "	12 ½
Sail loft (stock), . . . . .	1,200	7 "	25
Printing Office, . . . . .	1,000	8 "	20
	\$249,100		

## OUT-OF-TOWN PENNSYLVANIA RISKS.

	Insurance.	Rate.
Country Store, . . . . .	\$1,500	60
" " . . . . .	1,000	60
" " . . . . .	6,000	40
Merchandise and Furniture, Pottsville, . . . . .	6,000	50
Frame Building, Lancaster, . . . . .	400	75
	\$14,900	

## OTHER-STATE RISKS.

Store, Huntsville, Ala., . . . . .	\$4,000	75
" " " . . . . .	1,500	75
Brick Dwelling and Furniture, Ala., . . . . .	1,500	75
Frame Dwelling and Furniture, Ala., . . . . .	1,000	100
Country Store, St. Louis, Mo., . . . . .	10,000	50
Brick Store, Tenn., . . . . .	1,500	50
Merchandise, Tenn., . . . . .	5,000	60
Frame Dwelling, Tenn., . . . . .	1,200	100
Furniture, Frame Dwelling, Tenn., . . . . .	300	80
Country Store, Ky., . . . . .	5,000	50
Building, Ky., . . . . .	7,000	50
Brick Building, Burlington, N. J., . . . . .	6,000	35
Frame Dwelling, N. J., . . . . .	1,000	75
Country Store, Cincinnati, O., . . . . .	20,000	35
Brick Dwelling, N. J., . . . . .	1,500	50
Merchandise, Lynchburg, Va., . . . . .	9,000	60
	\$75,500	

A fire company's record enumerated 40 fires as occurring in Philadelphia in 1830, burning \$111,997, an average of \$2,800, with insurance upon the burned property to the amount of \$56,691—presumably an approximation to the amount paid. Such fires were probably those at which the fire company making the record was in service. There were about 40,000 buildings in the city and districts in 1830.\* During this year the covering of the better classes of buildings with metallic roofs became more largely adopted as protection against external ignition.

\* "1. The erection of wooden buildings is forbidden within certain limits—viz: from the river Delaware to the east side of Sixth street, in those parts of the city included between the south side of Vine street and the north side of Race street, and between the south side of Walnut street and the north side of Cedar,

The act of April 23, 1829, was a secession of Pennsylvania from the Union of the States in the insurance respect, but the time had not yet come for retaliatory legislation by other States, and in the absence of such "war among the States," the Franklin took a stand in 1831 against the bad and dangerous principle of the act by appointing John Tilford, a merchant of the town, as agent at Lexington, Ky.

As recommended in the little work just quoted (Philadelphia in 1830-1), and in further reduction of the fire liability of the city proper, or rather to keep within available restrictions the normal tendency of fire loss to increase, an ordinance was enacted June 8, 1832, imposing a fine of five hundred dollars upon every person who should erect anywhere "within the city of Philadelphia any wooden, framed, brickpaned or other building, the walls whereof are not composed wholly of incombustible materials." By "incombustible" was meant not inflammable.

At times, fires in the world's history have burned out plagues. The plague of fire did not accompany the Philadelphia cholera pestilence of 1832. Of such fires as did occur in the year, whatever their number may have been, 42 burned to the extent of \$86,429.28; amount of insurance paid thereon \$51,632.29. The principal fire appears to have been at a cotton mill in Kensington.

Growing increase of the "county" over the "city" in population had its effect on the *situs* of further corporate insurance organization. The districts of the county, as separate municipalities, had their independent movements and developments, producing specific local combinations, and heretofore insurance organization had as its locality the city proper. Localism in insurance was intensified by the prohibitory tax excluding other-State companies, and what might be called district feeling or interest began to show what looked like a choice for home offices. It was, however, rather a pretext for further insurance enterprise than a bid for the patronage of the office neighborhood merely. An insurance office got up like a retail shop, to depend upon the custom of its vicinage, is simply a conflict with the essentials of insurance. The fire office was presumed to be for local business, but local business meant rather the locality of the premium payer than the locality of the risk, and risks abroad were accepted at higher rates than local ones to cover the uncertainties and impediments of the distant; and distance, in a commercial sense, is more or less according to the facilities and cost of communication.

In the district of the Northern Liberties, of the geographical county, was projected a company entitled the Fire Insurance Company of the County of Philadelphia. The incorporating enactment was approved May 3, 1832.

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and from the river Delaware to the east side of Tenth street, in that part of the city included between the south side of Race street and the north side of Walnut street. This salutary ordinance was passed in 1796, and its provisions ought now [1831] to be extended over all the chartered limits of the city, and the principal portions of the districts.

"2. The introduction of the Schuylkill water is another cause of the infrequency of destructive fires. The plentiful supply of water, and the force with which it proceeds from the pipes, soon extinguish fires. It has been ascertained, on comparing the destruction of property by fire in the city where ready access to fire plugs can be obtained, with that which occurred in the liberties, where the Schuylkill water was not till lately introduced, and where dependence was placed on pumps for a supply, that the loss in the latter districts was about as  $2\frac{1}{4}$  or  $2\frac{1}{2}$  to 1 in the former. The saving of property from fire by the water works has been estimated by some at \$2,000,000 in value." (Philadelphia in 1830-1.)

Maximum charter capital was fixed at \$400,000—a figure which had become something of a standard—shares \$100 each. Subscription for 2,000 shares was to be had, and \$5 per share thereof was to be paid at once. The corporation was authorized to begin the issue of policies upon the usual fire risks when \$100,000 of the capital should be paid in; any citizen of the United States, resident therein, could become a stockholder. The new corporation was ready to begin business in April, 1833, an office having been opened on Third street, above Callowhill; Augustin Stevenson, president, Jacob F. Hoeckley, secretary.\*

There were now, consequently, eight offices issuing fire policies in Philadelphia, and the fire risk had become recognized as having as full economic legitimacy in average accounting as the marine risk. There was an insurable value in the city and county against fire loss of about one hundred and twenty million dollars, and the rate per annum of fire loss per \$100 of total *property* value was from 2@6 cents for subjects properly insurable under the perpetual contract, to say 15 cents per \$100, as an average, for the aggregate property above such minimum of hazard. For the insurer, however, there was such complication of cost as this: For example, in respect to properties insured not above 40 per cent. of their total value, premium on the four-tenths' *insured* value might have to pay eight-tenths of all the loss occurring on the total property.† While, further, it is possible that on Philadelphia properties of the very highest fire hazard early in the fourth decade of the nineteenth century, the normal maximum fire cost per annum in *classes* was not, or would not have been over  $1\frac{1}{4}$  per cent., the *classes* did not exist in the locality; in the language of the trade, there was, in the few risks of a particular kind, "not enough to make an average"; and a given amount of actual fire cost is at its highest insurance price normally where the insurer is exposed to the greatest breadth of yearly fluctuation in loss, though exceptionally the insurer may be misled by the incidental minimum loss to underrate to his own destruction.

In 1833 the Fire Association was a combination of 28 fire-engine companies and 17 hose companies, and it was said that such were "associated for the purpose of preserving the property of the citizens from fire as well by their united personal exertions as by means of an extensive insurance company"—so describing its two elements of fire loss prevention, or rather diminution, and fire loss indemnification. There were now in force on the books of the Association 4,500 perpetual policies—thereby the Association carrying approximately seven million dollars of risk on Philadelphia buildings. As an insurance company it was yet restricted to building risks. This organization did two things in 1833 relative to its incorporation: first, the thirteenth anniversary of the act of incorporation was celebrated March 27 by a parade of the members and apparatus of the companies constituting the Association, and "a grand ball at the Hall of the Musical Fund Society" in the evening; second, a repeal of

\* The office location was restricted, April 15, 1834, as follows: "The Fire Insurance Company of the County of Philadelphia shall always be north of Vine street, in the city of Philadelphia."

† The introduction of the co-insurance clause in American fire insurance began in the South with Southern offices.



the act of incorporation was secured, and the institution was reincorporated. The object of the change was to eliminate any personal liability of the trustees in the original act. An omnibus bill passing the State legislature and becoming a law by approval April 3, 1833, had sections 8-18 inclusive allotted to the Association; the last two sections of this division of the enactment were as follows:—

SEC. 17. And be it further enacted by the authority aforesaid, That the corporation hereby created shall assume and take upon itself, and be liable for all contracts, engagements, duties and liabilities of the corporation created by the act herein and hereby repealed, as fully, to all intents and purposes, as if it were the same corporation, and that all and singular the estates, rights, credits, goods and chattels, and generally all the real estate, and personal, of the said corporation, be and they are hereby transferred to and vested in the corporation hereby created, together with a right in all cases to sue, as if it were the same corporation continued.

SEC. 18. And be it further enacted by the authority aforesaid, That the act passed the twenty-seventh day of March, 1820, entitled "An Act to incorporate the trustees of the Fire Association of Philadelphia," be and the same is hereby repealed.

The following was a short term policy on merchandise, executed by the Insurance Company of North America, November, 1833:—

*On Goods.*

*For Four Months.*

By the President and Directors of the Insurance Company of North America.

No. 17,040.

[L. S.] Whereas J. G. and D. B. Stacey have paid to the president and directors of the Insurance Company of North America *Twelve dollars premium for insurance of \$15,000 on coffee and other merchandize, without exception, either on board the ship John Sergeant, in this port, or in the brick store, No. 37 South Wharves, in the city of Philadelphia,* from loss or damage by fire, whilst the said merchandise shall be and remain in the building aforesaid, for four months, to expire at 12 O'clock at Noon of the 23rd day of March, 1834. Now know all men by these presents, that in consideration thereof the Capital Stock, Estate and Securities of the said Corporation shall be subject to pay unto the said J. G. & D. B. Stacey, their Executors, Administrators or Assigns, any Loss or Damage which shall or may happen by or by means of Fire to the said merchandise within the term aforesaid, unless they the said President and Directors shall forthwith furnish the assured with the like quantity of merchandise of the same quality as those so injured by fire, or provided the said merchandise shall be wholly destroyed by or by means of fire within the term aforesaid, then the said Capital Stock, Estate and Securities of the Corporation shall be subject to pay to the said J. G. & D. B. Stacey, their Heirs, Executors, Administrators or Assigns, the entire Sum of

*Fifteen thousand Dollars.*

Which said Loss or Damage shall be paid or indemnified in manner aforesaid within thirty days after proof of loss; and if any dispute shall arise respecting the same between the Corporation and the Assured, such difference shall be submitted to the judgment and determination of Arbitrators to be mutually chosen by the parties, whose award in writing shall be conclusive and binding. But in all cases where partial losses or damages do occur to the property insured by this policy, within the period above stipulated, and afterwards a total loss of the same within the same period, whereby claims may arise to a larger amount together, than the sum hereby insured; the Assured shall in no wise be entitled to receive more than the whole sum so insured, within the period for which the insurance is made. Provided always nevertheless, and it is hereby declared to be the true intent and meaning of this Policy, that the said Stock, Estate, and Securities of the said Corporation shall not be subject or liable to pay, or make good the Assured any Loss or Damage by Fire, which shall happen by Invasion, Foreign Enemy, Civil Commotion, or any Military or usurped power whatever; And provided also, that this Policy shall not take effect or be binding to the said Corporation, in case the Assured shall have already made, or shall hereafter make any other Assurance upon the property aforesaid, unless the same shall be allowed of and specified on this Policy, in which case this company will bear rateably, and no more, of any loss from the perils hereby insured against, which may happen to the said property in proportion to the several insurances then existing thereon. Or if the Building above-mentioned containing the property of the said J. G. & D. B. Stacey shall at the time when any such fire shall happen, be in whole or in part occupied (with the knowledge or consent of the assured) by any person who shall use or exercise therein the Trade of a Carpenter; Joiner; Cooper; Tavern-keeper; or Inn-holder;

Stable-keeper; Bread or Biscuit Baker; Sugar Baker; Ship Chandler; Boat Builder; Malt Drier; Brewer; Tallow Chandler; Apothecary; Chemist; Oil and Colourman; Flax or Hemp-dresser; Printer; Coach or Carriage Maker; Rope Maker; Distiller; Varnish Maker; or Aqua-fortis Manufacturer; or shall be made use of for the storing or keeping of Hemp, Flax, Earthen-ware, or other merchandise packed in hay or straw; Gun-powder, Spirits of Turpentine, Hay, Straw, Fodder of any kind, or Grain unthreshed; unless so agreed by the company, then in all, or any of the said cases, this Policy, and every clause, article and Thing herein contained shall be void and of none effect; otherwise it shall remain in full force and virtue.

*Memoranda.*

1. Bills of exchange, bonds, notes of hand, and other written securities, title deeds, bank notes, specie or bullion, books of account, jewels, plate, medals or other curiosities, time pieces, musical instruments, paintings, pictures and sculptures, are not insured, unless specified and agreed on by a clause to that effect.

2. The insurance by this policy can be effective, in case of loss, only as to the right which the assured named has in the property insured, unless otherwise explained and agreed to by the company.

3. This Policy may be transferred by indorsement made with the consent of the Company (but not otherwise), and the Insurance continued from time to time without any additional expense (subject, however, to such modifications as circumstances may require), the premium for the renewed term being first paid.

In Witness Whereof, the said Corporation have by their president subscribed the sum insured, and caused their Common Seal to be hereunto affixed at Philadelphia, on the *Twenty-third Day of November* in the Year of our Lord, One Thousand Eight Hundred and *thirty-three*.

*For whom it may concern, and the loss, } Fifteen thousand dollars.  
if any, payable to the assured named. }*

JOHN C. SMITH, President.

*Dollars 15,000, on Merchandise, at 8-100, . . . . . 12.00  
Pol., . . . . . 1.00*

*Dollars, . . . . . 13.00*

After the Northern Liberties, Southwark, the oldest of the incorporated districts, followed as a fire insurance *locus*; and, as in geometry, the locus in the second instance was a movement rather than a fixity. An act approved April 15, 1834, appointed Thomas D. Grover and others, commissioners for receiving subscriptions to the stock of a company to be called the Peoples' Fire Insurance Company of the County of Philadelphia, and upon the subscription to 2,000 shares of the capital stock at \$100 per share, with \$5 paid at the time of subscription, the commissioners were to certify such to the governor, who thereupon, by letters patent, etc., would create the subscribers into one body politic and corporate, etc., by the name, style and title of the Southwark Fire Insurance Company of the County of Philadelphia, to be located in said district. Total capital stock, 4,000 shares at \$100 each.

SEC. 8. The president and directors shall have full power, on behalf of the said corporation, to make insurance against losses by fire on any house, tenement, manufactory or other building, and on goods, wares, merchandize and effects therein, and upon any ship or vessel upon the stocks, building or repairing, or at any moorings, or lying in port, and on goods, wares, merchandize and effects therein, and on hay, grain and other agricultural products, in barns, stacks or otherwise, and generally on all kinds of buildings, and on goods, wares, merchandize and effects, upon the land, or lying in port; to make, execute and perfect such and so many contracts, bargains, agreements, policies, and other instruments, as shall be or may be necessary, and as the nature of the case shall or may require; and every such contract, bargain, agreement and policy to be made by the said corporation, shall be in writing or in print, and shall be under the seal of the said corporation, signed by the president, and attested and signed by the secretary or other officer who may be appointed by the president and directors for that purpose. *Provided*, That it shall not be lawful to effect any insurance, or issue any policy in the nature of insurance against fire, until \$100,000 of the capital stock of the said company shall be actually paid in by the stockholders.



District corporations were born to emigrate (securing legislative privilege thereto, if needful), however long they might linger in their first abode, by the operation of the law that while concentrated population becomes distributive, distributed trade becomes concentrative.

Three instalments of \$15 each per subscribed share were ordered payable April 10 and 20, and May 1, 1835; and while payments on the subscriptions to the Southwark's capital stock were in progress, another district company was chartered, *i. e.* the Spring Garden Fire Insurance Company of the County of Philadelphia, "to be located in the District of Spring Garden," upon the same basis as the Southwark as to subscription and paid-up capital, but par of stock was \$50. The date of the act of incorporation was April 15, 1835. A payment of \$40,000 on the capital stock was called in July. An office was opened for the Southwark at 257 South Second street; president, William G. Alexander; secretary, S. H. Turner;—and for the Spring Garden at the boundary between that district and the Northern Liberties, and near the northern boundary of the city proper, *i. e.* at the north-west corner of Sixth and Wood streets; president, Miles N. Carpenter; secretary, Samuel Hart.

Fire liability, always in more or less of a transition state where production is going forward in intelligent processes, was now in something of a revolutionary stage. The displacing of wood as fuel, steel and flint as an ignitive of tinder (for the purpose of starting illumination by means of sulphur-tipped matches), fats as candle and lamp lights, had begun. With respect to bituminous coal, Dr. Mease, writing in 1811, said: "The principal article of house fuel in Philadelphia is hickory, oak or maple wood. Pine wood is used chiefly by brick burners and bakers. Coal is only partially used in dwelling houses, but would be in general demand for counting-rooms, offices and chambers, owing to the danger from fire being thereby lessened, if it could be afforded at a rate as cheap as wood. The time is anxiously looked forward to when the inexhaustible bodies of excellent coal with which our western counties, and Wayne county, abound, will be brought down to Philadelphia by means of that great chain of inland navigation which has been so long in contemplation." In 1820 only 365 tons of anthracite reached Philadelphia from the Lehigh region. The first railroad for its transportation, or as an adjunct to its transportation, began operations in 1827. It was 9½ miles long, extending from the Mauch Chunk mines to the Lehigh river. Anthracite burning in a grate at the residence of Mark Richards, in Third street, opposite Branch street, in 1819, was visited as a curiosity, its intense local heat and slight blue carbonic-oxide flame contrasting strongly, not only with the flaming wood, but with the blaze, smoke, and tarry odor of the bituminous coal, and having the advantage, in respect to fire prevention, of the absence of inflammable soot and escaping flame. In 1835 the receipts from the Lehigh district were 131,250 tons, from the Schuylkill (beginning in 1825) 339,508 tons. In the volatile matters, however, of bituminous coal, according to the proportions of hydrogen and carbon, lay the source of illuminating gas, brought into practical use in an English manufactory in 1798 by the experiments of William Murdoch, who first lighted his own house in Cornwall with it in 1792. The decomposition



of gas coal and kindred substances, and collection of the gas, were attempted in Baltimore in 1821, were successful in Boston in 1822, and the New York Gas Light Company was in operation in 1827. Popular apprehension concerning the danger of the gas, which marked its introduction into London, existed in Philadelphia, including the belief in the heating of the pipes distributing the gas. In 1830 discussion was in progress in the city between the advocates and opponents of the carburetted hydrogen illuminant, and a number of prominent citizens in a remonstrance set forth a number of calamities which would inevitably follow the introduction of the gas, owing to its "poisonous, explosive, and destructive nature."

The illuminant had, however, been introduced elsewhere, and whatever problem was involved was in the course of practical solution—yet subject to the varied interpretation which might be given to experience. Fire insurers had found no damage from trial, and consequently there was no jeopardy to rate under existing developments, whatever might be the possibilities of loss from explosive admixture of gas and air with flame contact. In the varied inquiry on the subject, correspondence brought forth the annexed testimony:—

FRANKLIN FIRE INSURANCE OFFICE,  
NEW YORK, 21 January, 1833.

MR. WM. W. FOX,

*Dear Sir:*—In reply to your inquiry, whether the introduction of gas lights into buildings is deemed by this company to have increased the hazard from fire, I have the pleasure to state, that upon its first use in this city [New York], the fire companies generally came to the conclusion that their risks were not enhanced thereby, and premiums were of course not varied. Indeed, it is obvious that the fixed position of the gas lights renders them less liable to communicate to any combustible material than portable lights of either candles or oil lamps.

Very respectfully,

J. WORTHINGTON,  
President of the Franklin Fire Insurance Co.

(Signed)

Jonathan Laurence, President Merchants' Fire Ins. Co.  
A. L. Underhill, President Fulton Fire Ins. Co.  
E. Lord, President Manhattan Ins. Co.  
John Leonard, President Firemen's Ins. Co.  
Thomas R. Mercein, President Equitable Company.  
Charles Town, President Etna Ins. Co.

To S. V. Merrick, Charles Weld, mayor of Boston, replied, January 22, 1833, *inter alia*, as follows:—

I may further state that the insurance companies in this city have not raised their rates of insurance in consequence of the introduction of gas lights into some of our houses and stores.

Committee of select and common councils reporting on the subject of the remonstrances of sundry citizens against lighting the city with gas, submitted that the remonstrances were:—

1. On account of explosions, loss of life, and destruction of property where this mode of lighting has been adopted.
2. They consider gas as ignitable as gunpowder, and nearly as fatal in its effects.

The reply of the committee was:—

1. Carburetted hydrogen gas is, of itself, not explosive.
2. That this gas is, of itself, not ignitable.

The apprehensions of the remonstrants were not embraced in the matter of spontaneous ignition, but gas illumination was adopted, gas being first made at the city works February 8, 1836; and the hazard of gas-explosion fires was accepted by the insurers as a trial without any attempt at anticipatory rating or stipulated precautionary regulations.

With their special incidental jeopardies, anthracite and illuminating gas were yet reductive of the fire hazard; but the friction match, with chlorate of potash as the igniting explosive, began a series of fire-strikings which made the playing child, the rat, the mouse, the thoughtless step, some jarring concussion, some movement of the arm, each a fire starter, and greatly augmented malice, drunkenness, fraud and carelessness as factors of ignition. The first American patent for a friction match was issued October 24, 1836.

Meanwhile there were augmenting fires, though the report of Philadelphia fires in 1835 embraced but 80 in number, with loss to the amount of \$119,200. By the burning of a stable, which fired contiguous buildings, there was a loss estimated at \$70,000.\* The increase of steam power was recognized by the councils of the city proper as calling for precautions. By ordinance of date of December 31, 1835, regulations were established for the masonry of furnaces and furnace chimneys for steam engines, and a wire guard required at the top of the chimney for the arrest of sparks and cinder. For engines not exceeding ten-horse power the furnace walls were not to be less than 18 inches in thickness,

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\* December 16 and 17, 1835, a fire swept the first ward of New York, east of Broadway and below Wall street, burning 648 buildings and their contents, with an average loss per building and contents of about \$30,000, illustrating the fire jeopardy of concentrating values in the mercantile quarters of American commercial cities. The insured loss was about \$8,000,000. In the almost general ruin of the New York city fire insurance companies, the contingencies besetting mortgages upon local real estate as local fire insurance security, *i. e.* the subjection of the asset and the risk to something of a common peril, was brought into prominence. To mitigate the evils of forced realizations upon the mortgages at the worst time, the local authorities were called to the rescue of the mortgagees, and thereby to the rescue of the loss claimants, so introducing the demoralizing principle of making the city the insurer of the insurers. Still the logic of general conflagration does not uphold the advisability or practicability of superseding the insurance corporation by municipal insurance. Proposals were issued by the city for a 5 per cent. \$4,000,000 "fire loan": "In pursuance of the provisions of the law of the State of New York, entitled 'An Act to authorize the mayor, aldermen and commonalty of the city of New York to raise money on loan, and for other purposes, passed January 16, 1836,' and also in pursuance of an ordinance of the common council of the city of New York, entitled 'A Law to regulate the purchase of bonds and mortgages, which belonged on the 18th day of December, 1835, to any of the fire insurance companies in the city of New York which have become insolvent, or whose capital may have been impaired by losses occasioned by the fire of the 16th and 17th of that month, and to provide the funds necessary for that purpose.'"

This fire brought the excepting policy phrase "usurped power" into an American court. (The *any* usurped power which closes and consummates the exception to all risk and destruction arising from setting aside the rule and sway of established civil law, had no reference to any method of checking the spread of flames, or any instrumentality to such end, and the municipality in this case became a fire extinguisher.) Gunpowder was employed by order of the mayor of the city to bring down buildings in the track of the advancing flame. Suit was first brought for damages by R. L. & D. N. Lord for value of goods and lease, \$156,274.80, and R. L. Lord, building, \$7,168.50; and the question was raised as to whether there were usurpation of power on the part of the mayor in ordering the explosion. With respect to the relation of the mayor's action to the policy terms—the construction given to the terms and use made of them—we cite as follows from Angell on Fire and Life Insurance, 2d edition, § 138: "A question arose (*City Fire Ins. Co. vs. Corlies*, 21 Wend. (N.Y.) R., 367,) respecting the exception of 'usurped power,' out of the great fire in the city of New York on the morning of the 17th of December, 1835, upon which calamitous occasion a store, No. 75 Pearl street, was, by order of the mayor of the city, blown up with gunpowder, and the goods therein entirely destroyed. An attempt was made to make it appear that although the mayor had no authority, yet, as he acted *colore officii*, it was a case happening by means of *usurped power*, which in the policy was expressly excepted. Now it is very evident that there is an impossibility in maintaining that a mere *excess of jurisdiction* by a lawful magistrate is the exercise of an 'usurped power' within the meaning of that exception, and so the court viewed it. 'That is not,' says Bronson, J., in behalf of the court, '*what the insurers had in mind* when they made the exception.' 'Whether the mayor,' said the learned judge, 'had the concurrence of two aldermen, as the statute provides, or not, there can be no doubt of his common law power, as the chief magistrate of the city, to destroy buildings in case of necessity to prevent the spreading of a fire. Indeed, the same thing may be done by any magistrate, or even by a citizen without official authority.' (*Mayor of New York vs. Lord*, 17 Wend. (N.Y.) R., 285.)"



and the chimneys of such furnaces were to be not less than  $13\frac{1}{2}$  inches in thickness to the height of 14 feet, and thence upwards 9 inches; for engines of more than ten-horse power, furnace walls  $22\frac{1}{2}$  inches thick, the chimneys 18 inches for the first 14 feet from the base, thence upwards 9 inches—the walls of the furnaces and chimneys to be placed always at least 4 inches from any division or party wall. Meshes of the wire guard on the top of the chimney were to be not more than three-eighths of an inch square. The penalty for violation of the ordinance in relation to furnaces and chimneys was \$100; neglect of the wire guard regulation \$5.

In 1836 the companies were called upon to pay the greatest insured loss that had yet attended a single Philadelphia fire. It was a mercantile risk (drugs), the establishment being that of N. Lennig & Co., No. 56 South Front street, below Chestnut. Charles Lennig, the founder of the house, had been distinguished among the manufacturers of the city for his success in making oil of vitriol by concentrating the acid in platinum vessels, arranged to keep a steady discharge of the acid so concentrated. In the varied drug stock, seething and deflagrating in the flame, there was a large amount of sulphuric, nitric, and muriatic acids, producing suffocative gases. The fire began at 8 A. M., May 22, and steadily made its way, despite of the active efforts of the firemen, two of whom were found dead in the ruins, and others were injured. A description of the conflagration said: "Immense volumes of black and grey smoke rolled from the roof of the building, impelled by the heat below, which, when they had attained some ten or twenty feet in height, fell on the opposite side of the street, forming, for a long time, a most magnificent arch." Loss was about \$150,000. The adjoining properties were saved with slight damage. The insurance on the merchandise amounted to \$100,000, and the building was fully covered. The fire insurance of the city was sustained by few companies; the American Fire paid a loss of \$42,021.75 by this conflagration; the Franklin, \$34,428.95.

The evolution of the juridical relations of the fire insurance contract was indicated by the appearance in England of the works of Ellis (1832) and Beaumont (1833), treating of fire and life insurance law apart from the marine insurance contract. Beaumont's *Law of Fire and Life Insurance* was on sale in Philadelphia in 1836, and Philadelphia fire insurance appellate litigation had hardly yet begun,\* though there had been a few instances of earlier trifling disputes in settlement of fire losses terminating in the trial courts. The chapter on fire-loss adjustments prepared the way more than the marine average stater did for the introduction of the professional adjuster of partial fire losses, that is the special accountant of the *insurance* on the loss as distinguished from the mere *appraisement* of the loss.

Pennsylvania adjudications of the fire policy by the Supreme Court of the State were, however, inaugurated as follows:—

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\* In Massachusetts in 1807 the case of John L. Sullivan *vs.* the Massachusetts Mutual Fire Insurance Company was decided. This involved the question of return of deposit premium under the by-laws upon alienation of property. (2 Mass., 318.)



In *Moliere vs. The Pennsylvania Fire Insurance Company* it was held that a description of the risk not fulfilling the intention of the parties may be rectified through parol evidence—so far as such evidence goes to identify what the writing actually referred to. Policy No. 505 of the company, dated February 11, 1826, insured ice houses and contents for one year; insurance was renewed from year to year by endorsements on the policy, and premises and contents were totally destroyed by fire June 19, 1829. The insurers did not consider themselves liable owing to “the representations made to them of the buildings intended to be insured and the description in the order and policy.”

Premises with contents were described in the policy and in the order of insurance as “a brick ice house, one story high and about forty feet square; also a brick ice house adjoining, one story high and about thirty-two feet square, situated on the east side of George street, between Shippen and Plumb streets, and also on the ice which now is, or may be contained in the said houses.”

Persons desiring to make insurance on buildings were required to deliver to the secretary of the company prescribed particulars, which was an established usage before the Pennsylvania was incorporated, the first of which was as to what materials the walls and roof of each building were constructed, as well as the construction of the building contiguous thereto; then the name or names of the occupiers; also each building to be separately valued, and a specific sum insured thereon, and in like manner a separate sum to be insured on the property contained therein.

In the insurance of goods, wares, or merchandize, the building or place in which the same were deposited was to be described; also whether such goods were of the kinds denominated hazardous, and whether any manufacturing was carried on in the premises. And if any person or persons should insure his or their building or goods, and cause the same to be described in the policy otherwise than as they really were, so as the same be charged at a lower premium than was therein proposed, such insurance should be of no force.

The amount and rate of insurance were, as stated in the order and policy of insurance:

\$1,200 on the first mentioned house,
600 on the other,
1,000 on the ice in the first mentioned house,
600 on the ice in the other.

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\$3,400

Sum to be insured, \$3,400, @ 50 cents per \$100,	\$17
Policy,	1
	<hr/> \$18

It appeared by the rates of insurance in one of the unexpired renewals endorsed on the policy, that the premium on the ice was estimated at 25 cents per \$100, which, applied to the ice and building at the date of the policy, showed that the above average rate of 50 cents on the whole was equal to, say 72 cents on the houses and 25 cents on the ice.

The description as given by witnesses for the plaintiff was that these ice houses were cylindrical wells of brick, of depth about equal to their diameter, paved with brick at the bottom. The walls were of brick, raised above ground about seven to ten feet, and terminating at the roof, which rested upon them. The principal superstructure was the roof, which was of great height, and extended over and beyond the brick walls downwards until it met a square wooden weatherboarding, which formed a fence or shelter for the ice houses, at a sufficient distance from the walls to allow the necessary ventilation. Thus the exterior of the ice houses was altogether wooden, the woodwork consisting of the roof and weatherboarding. This weatherboarding was a necessary protection against heat, and without it the ice could not have been preserved. There was no more woodwork about the ice houses than was necessary for the purpose of an ice house, and the mason-work was raised above the ground to a greater height than usual in the largest ice houses.

The plaintiff having offered to prove by a witness what took place at the time the insurance in question was effected, objection was made, which the judge overruled.

The cause was tried before Justice Rogers, at Nisi Prius, the 26th of November, 1832. A verdict was found for the plaintiff for \$3,167.35. The defendant now moved for a new trial, and assigned for chief reason, that the court admitted the evidence of F. G. Wolbert to prove a *parol* contract different from the contract upon which the suit was brought.

For the defendant, in support of the motion, it was urged by counsel that the effect of the decision was to substitute the verbal agreement of the officer of the corporation for the covenant executed under the seal of the corporation, and to try an issue different from that presented by the record, and to meet which the defendant would be without notice. All negotiations prior to, or contemporaneous with, an agreement under seal, are merged in it. (*Parkhurst vs. Van Courtland*, 1 John. C. C., 273; *Patterson vs. Hall*, 9 Cowen, 784.) The policy itself is considered to be the contract between the parties, and whatever proposals are made or conversation had between the parties prior to the subscription, they are to be considered as waived, if not inserted in the policy, or contained in a memorandum annexed to it. (13 Mass., 96, 99; *Higginson vs. Dall*, 1 Penn. Rep., 417.) The general rule undoubtedly is, that when by consent of parties their agreement is reduced to writing, parol evidence is not admitted to contradict, alter, or vary it. The exceptions to the rule it is not easy to state with clearness. An application for insurance is not a warranty, unless inserted in the policy. A description in the policy is a warranty that the property is as described, and it matters not whether the misdescription is the result of fraud or mistake. (*Fowler vs. Aetna Fire Ins. Co.*, 6 Cow., 673; 7 Wend., 27.) Supposing that a mistake in drawing articles may be proved by parol, yet in an action of covenant on written articles the plaintiff cannot prove by parol evidence an agreement different from that on which he has declared. (*Barndollar vs. Tate*, 1 Serg. & Rawle, 160.) The object of the testimony is to show that the order, as reduced to writing by the secretary of the company, did not correspond with the directions given by the plaintiff. But the order is not the act of the company. It matters not by whom it is written; it is signed by the assured, and is exclusively his act. It is the business of the officer to receive the order, and to say yes or no, but not to construct the order. It is not within his power so to bind his principals. Both parties are to act in their proper spheres.

For the plaintiff it was stated that the question was in substance the same as was decided on a similar policy in the Columbian Insurance Company *vs.* Lawrence, (2 Peters, 25, 39, 55, 56,) on which authority counsel relied to show that the testimony was admissible, as tending to negative the possibility of the alleged misdescription having affected the rate of premium, which was the sole criterion on such a policy as this, to determine the materiality of the misdescription complained of. If the case turn upon the doctrines peculiar to Pennsylvania as to admitting parol evidence of matters occurring at the time of making a written contract, these doctrines are perfectly well established, and their applicability to the case is beyond dispute.

Sergeant, J.: A mistake in a policy may be rectified when it clearly appears from the label or other satisfactory evidence that it was reduced to writing in terms not conformable to the real intention of the parties. (*Motteux vs. London Ass. Co.*, 1 Atk., 545; *Henckle vs. Royal Exch. Ass. Co.*, 1 Ves., 317.) I see no reason why the same thing may not be done in the present instance, by correcting the policy according to the verbal description furnished to the secretary, if the evidence show that he omitted a material part of that description. The memorandum, which has been termed the order, possesses no greater efficacy than the policy, and may itself be corrected in the same manner. It is immaterial whose act it was; it is sufficient if the evidence show that it did not conform to the intentions of the parties, either by the mistake or inadvertence of the person who drew it up. It may be remarked, however, that by the conditions annexed to the policy the secretary is designated as the person to whom the description is to be furnished. If he, acting in this capacity, undertake to reduce the verbal particulars to writing, and file them as a memorandum or order, the insured has a right to expect he will insert all that is material; and if he omit to do so, I should deem it his act and not the act of the insured, and that the company would, in equity, be precluded from setting up this omission as an objection to a recovery in case of loss, in the same manner as where the policy is not made conformably to the order. The evidence to support such an allegation ought to be clear and satisfactory. But of that the jury were to judge. I am of opinion that the evidence was properly received, and that the rule to show cause why a new trial should not be had be discharged. (5 Rawle, 342.)

In no wise did the financial inflation which marked the country in the period 1830-36 contribute to the expansion of Philadelphia insurance stock capital. Speculation did not take such direction. Before the fire at Lennig's store there was shown some appreciation of the advantages of larger resources and recourses for insurance capital than any existing, by the act of April 1, 1836, repealing the restrictions in the various insurance charters prohibiting all but citizens of Pennsylvania or of the United States from becoming stockholders in the corporations. Early in 1837 the Pennsylvania Fire Insurance Company



called for \$50 per share remaining unpaid on the stock subscriptions, payable March 1, while were heard the first rumblings of the coming commercial upheaval. Prices of investment securities had attained the highest point, the result of an extraordinary increase in banking organizations throughout the country, and loans and discounts which culminated at \$525,115,702 in 1837, fell to \$462,896,523 in 1840. From 1834 to 1836 the currency had increased 50 per cent., and six years of reaction were now beginning. Daily commercial failures involved two or three millions of liabilities. Suspension of specie payment by the banks started in May, city rapidly following city in such check upon the convertibility of paper currency. Insurance companies were not so directly or immediately affected as were the banks and other interests by the panic arising from the monetary revulsion, but the wearing down of prices affected the current account value of funds, and in the case of fire and marine insurance was a disturbing element in the business.

In the case of *Moliere vs. The Pennsylvania Fire Insurance Company* no exception was taken to action of covenant, but this question came up in *John Luciani vs. The American Fire Insurance Company*. The policy was dated November 14, 1833, and was for one year; renewals were made by subsequent endorsements covering the period to November 14, 1836, without seals to the endorsements, and with variations as to the amount insured as follows:—

Policy, Nov. 14, 1833, to expire Nov. 14, 1834.	{ Merchandize, \$1,600 Fixtures, 100 Household goods, 300 }	\$2,000—premium, \$7.00	
Endorsement, May 28, 1834, to expire Nov. 14, 1834; an addition to policy of	{ Merchandize, \$300 Furniture, 200 }	\$500	" \$1.00
Endorsement, Nov. 14, 1834, Policy to expire Nov. 14, 1835.	{ Merchandize, \$2,400 Furniture, 500 Fixtures, 100 }	\$3,000	" \$10.50
Endorsement, M'ch 17, 1835, additional a'mt, to expire Nov. 14, 1835.	{ }		" \$5.00
Endorsement, Nov. 14, 1835, to expire, noon, Nov. 14, 1836.	{ Merchandize, \$6,400 Furniture, 500 Fixtures, 100 }	\$7,000	" \$24.50

A condition of the policy was, "each building must be separately valued, and a specific sum insured thereon—and in like manner a separate sum insured on the property contained therein." January 10, 1836, goods, furniture and fixtures were wholly destroyed by fire.

For plaintiff, an amendment to plea being offered covering a detail of the different insurances effected, it was contended that renewal was reëxecution of the instrument, the instrument being the same and the parties being the same. "In *Gower vs. Sterner*, it was held at this term that the plaintiff might declare in covenant upon a specialty amended by parol." The defence maintained that the case was not a mere renewal, but an enlarged new risk and with new premium.



Gibson, C. J.: An alteration which is not an amendment may be disallowed; and, indeed, the parties have put the issue of the contest on the question whether the covenant is maintainable on the case set out in the new counts, or, in other words, whether the insurance laid was effected by specialty or by parol. The original policy covered the stock of a confectioner, valued at \$2,000, which was, by express stipulation, to expire at the end of a year. It is not pretended that any new policy was sealed, but it is supposed that subsequent contracts of insurance were introduced into the old one through a clause in the printed conditions annexed to it, which is undoubtedly a part of it. By this clause it is provided that "persons desirous of continuing their insurances may do so by a timely payment of the premium, without being subject to any charge for the policy"; and the first step taken by the assured was not to continue the original insurance, but to insure an additional sum by the payment and endorsement of an additional premium within the year, and without a corresponding alteration of the instrument or the execution of a new one. The amount insured was extended by payment and endorsement of a further premium at the end of the first year to \$3,000, and swelled during the second to \$5,000, which was further increased for the third, being that in which the loss occurred, by \$2,000 more. Now stript of the right of renewal, it would not be pretended that the executed policy had not expired by efflux of time, or that without adaptation and redelivery it could be used to embody a subsequent contract. The commercial nature of insurance may serve to relax the rigidity of rules of construction, but it can dispense with no technical formality inherent in the constitution of a common law instrument. Unassisted by a particular stipulation, an expired policy stands on the footing of an expired lease, which, though it be competent to show the conditions of a subsequent letting by parol, is incompetent to show a subsequent letting by deed, unless it were redelivered, having been altered to comport with the date and duration of the term. What, then, is the effect of the clause in question, which, it must be admitted, was as effectually incorporated with the original policy as if it were contained in the body of it? It runs that previous insurance might be prolonged by payment of premium only, and without an additional charge for the policy. Does that import a right to renew the contract as a specialty without renewing the instrument as a specialty? It imports no more than that the instrument should be furnished by the company free of an expense which would otherwise have been equal to the premium of an insurance on \$500, and which might well be thought sufficiently important to be made a subject of particular stipulation. By taking that to be otherwise, how could the essence of a contract be changed by an agreement so as to make that a specialty which is no specialty by the common law? It is to be remembered that the action is not on the instrument as it was executed; that the insurance effected by it expired at the appointed time; that the clause in question regards insurance to be made thereafter, and that every renewal, even on the old terms, was necessarily to be a distinct contract—a consideration which makes it unnecessary to insist on the fact that each renewal was actually on new and different terms. Now it will not be pretended that an agreement can dispense with those forms of subsequent execution which the law declares essential to give the contract extension, and yet preserve its generic character. A clause that subsequent verbal alterations or additions should be treated as if they were incorporated with the instrument, and make the whole a specialty, would fail of the effect; and parol endorsements have no greater force than verbal stipulations. A covenant that notes or bills to be drawn should have the qualities of specialties, would not make them so, or confound the settled distinctions of the law. It is said by Perkins (Sec. 129), that a deed must be actually sealed, and that a writing delivered as a deed is not such without it—a principle observed in *Taylor vs. Glaser*, (2 Serg. & Rawle, 502,) where the writing, though said to be sealed in the conclusion and in the memorandum of attestation, was held to be but parol. If, then, the payment of a further premium cannot make the old policy a new one, what is the effect of it? Precisely the effect of an order to insure, and no more. The plaintiff might have demanded a policy in conformity to the clause, and have maintained an action for a breach of it, or he might perhaps maintain *assumpsit* on the contract remaining in parol; but he cannot maintain *covenant* on what is no more than the conditions of a deed to be executed. (2 Wharton, 167.)

Of the three building fire insurance companies, one, the Fire Association, was authorized by an act approved April 13, 1838, to enter upon general fire insurance—the Contributionship of Bucks County had been previously empowered, March 28, 1836, to make insurance on the furniture of the houses and buildings "insured by them." Authority was also given to this contributionship to elect as a minority of directors, "persons who are residents of another State." In the spring of 1838 the Delaware County Insurance Company opened an office at No. 36 Walnut street, Davis B. Stacey, agent, for fire

risks as well as marine inland navigation risks. An attempt was made this year to organize the Exchange Insurance Company of Philadelphia, whereof Joseph Hand, John B. Myers, Henry Toland, and others, had been appointed organizing commissioners by the incorporating act of April 13, 1838. The burning of Pennsylvania Hall took place on the night of May 17; this burning was outside of the insurance application. The hall had been formally dedicated three days previous to the purpose for which it had been erected, the cause of anti-slavery. Whatever might have been the probabilities of its destruction by secret incendiarism, it was destroyed by a mob through open public incendiarism and violence. The firemen saved the surrounding properties. Necessarily, where damage arises from the weakness, imbecility, or treachery of authority, the community is the indemnifier. The law relative to compensation to sufferers from such public outrages was, in effect, that the owner of any building burned by rioters, if in the county, must apply to the Court of Quarter Sessions, or, if in city, to the mayor's court; and the amount of damages being ascertained, "the county commissioners shall forthwith draw their warrant on the treasury for the amount so awarded, which warrant shall be duly paid by the treasurer."

On the question whether a policy issued by the company for one period would be, in its terms, variously renewable as a specialty for succeeding periods (*Luciani vs. American Fire Ins. Co.*), the following action was taken by the American Fire Insurance Company at a meeting of the directors, held December 10, 1838:—

*Resolved*, That the form of policy used by this company be altered, in conformity to the opinion of Mr. Binney and Mr. Sergeant, so that all renewals, by payment of the premium, shall be effectually comprehended in, and made a part of the deed of insurance under the seal of the company.

*Resolved*, That as to insurances heretofore made, and renewed or continued, or which may be renewed or continued by payment of premium, and receipt for the same (whether endorsed on the policy or not), this company will in no event, nor under any circumstances, set up, as a defence, any objection that the same is not embraced in the policy, as a part of the deed, but will admit of record that it is a part of the deed.

Extract from the minutes.

JOB BACON, Secretary.

In compliance with the foregoing resolutions, the conditions of insurance on the face of the policy have been altered to the following:—

That in consideration [of the premium paid] the Capital Stock, Estates, and Securities of the American Fire Insurance Company, shall be subject and liable to pay, make good and satisfy unto the said insured — heirs, executors, administrators or assigns, all such damage or loss which shall or may happen by Fire, to the property above mentioned, for the full end and term of — to wit, from — to — and also for the full end and term of any future time and times for which a premium of insurance shall be paid, and endorsed on this Policy, or otherwise acknowledged in writing by the Secretary or other authorized officer of the said Corporation for the time being, not exceeding the sum of — Dollars, or such other sum and sums, as by such endorsements or written acknowledgment, shall at any future time or times aforesaid, be assumed by the said Corporation, unless the said Company shall, within thirty days after the proof of such damage or loss, furnish the said insured with a like quantity of any or all of the said goods, and of the same quality as those so injured by fire, or shall make good the damage or loss, by paying therefor, according to an estimate thereof, to be made by arbitrators, indifferently chosen, whose award, in writing, shall be conclusive and binding on all parties.



It is agreed that this Policy shall expire at 12 o'clock noon, on the — day of — in the year one thousand eight hundred and — unless continued by endorsement or acknowledgment as aforesaid, and then that the same shall expire according to the tenor of the said endorsement or acknowledgment.

Throughout the State numerous county mutual companies for fire insurance on assessable premium notes were now starting up, and theories of fire insurance for the profit of policyholders were to be subjected to the test of trial in the city. In such city movement in the direction of mutuality, the initial deposit in some form still remained the ideal security. First, the insured was to be benefited by becoming a stockholder. The Columbia Insurance Company of Philadelphia was incorporated June 14, 1839. It was organized as the Columbia Fire Insurance Company, with C. N. Buck as president. In the effort to secure the capital stock, inducement was offered to manufacturers, particularly, rather in the form of cheap insurance than stock dividends. The general premium idea for stockholders was one-half the normal rate charged by other offices in cash, and a "bond" for amount five times the unpaid half, subject to call. People were invited to subscribe for stock and give orders for insurance at the same time, "handing in their orders for insurance without delay." In the business which was to be done, or tried to be done, the general public was offered insurance at the usual rates. The "mutual bond system" would do thus in the way of cash and chance: "To insure \$10,000 at the usual premium, on a cotton factory, is 2 per cent. (\$200). If you here become a stockholder of 10 shares, you pay two instalments of \$10 each—in all, \$200. This investment gives the privilege to insure on the bond system, which is to pay half in money, say \$100, and give a bond for \$500. Should, during the year, there be no call on the bond, you gain \$100 and 6 per cent. interest thereon, as you have had the use of the money, which leaves a clear profit on the investment of \$200 of 53 per cent." (This was in effect saying, the proper rate on the cotton factory is one per cent., plus contingencies, up to 5 per cent. additional.) Further, "a person may insure his dwelling house, household furniture, or goods and merchandise generally, in store, at the rate of 12½ cents per \$100 per annum, and give a Mutual Assurance Bond for 62½ cents on the \$100."

Coincident with the first steps taken for this experiment, the general fire contingency of Philadelphia was shown at a higher degree of probability than had previously been attained. Philadelphia would not burn as New York, nor even as Troy, N. Y., or Charleston, S. C.; but October 4, 1839, at 11 o'clock at night, began what may be called the first general conflagration in the city. It started in the basement of a provision store, 14 South Wharves, a locality of various warehouses. The wind was high and from the north-east. The fire took the buildings on the west side of Water street and east side of Front street down to Chestnut street on the south—oil stores, wholesale groceries, tobacco warehouses, hotels, ship chandlery, spice factory, etc. It crossed Chestnut street, but was stayed on the south side of this street, the hand engine and the hose companies working effectually, and the mayor and all the night



watch of the city on the ground preserving goods. A four-story brick warehouse on the east side of Front street was saved by the sheet-iron covering of the closed wooden shutters and a slate roof. The number of buildings taking fire was 52; the loss approximated to \$9,000\* per building and contents. There were only six or seven companies participating in the insurance loss. The losses paid by the American Fire amounted to \$72,470.33; the Franklin paid \$44,955.37; the Contributionship, \$32,858.69.

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\* The extraordinary progress making by New York in the concentration of values was shown by a report of the fire commissioners of that city for the period from May 21 to December 31, 1839, in which period presumed incendiary fires were prevalent, and 54 fire outbreaks were charged to incendiarism. There were 105 miscellaneous fires enumerated for this period, involving an estimated loss of \$1,967,699, or \$19,406 per fire. The insurances on the fire-attacked properties, about 200 buildings and contents, amounted to \$2,015 960. One-third of the total loss was caused by a fire on Cedar street.

## CHAPTER VI.

*The Fire Hazard during 1831-40—Movement of District Companies to the Insurance Centre—Fire Insurance Projects—The Citizens' Mutual Insurance Company organized—The Southern Loan Company becomes the Southern Insurance and Trust Company—The Mechanics and Tradesmen's Loan Company becomes the Mechanics and Tradesmen's Insurance Company—Incorporation of the Reliance Insurance and Trust Company—Incorporation of the Equitable Insurance, etc., Company—The Insurance Company of North America begins Perpetual Fire Insurance—Burning of a Combined Factory and Mercantile Risk and Firing of Contiguous Properties—Rope Walks ignited by Lightning—A Defalcation—Non-Inhabitancy of Buildings and Night Fires therein—Assets and Dividends—The Chartered Reliance Insurance and Trust Company becomes the Reliance Mutual Insurance Company—Profit Certificates, Premium Notes, etc., of the Reliance—Suburban Mutuals—Troubles with the Fire Department—Weavers' Riots—Perpetual Insurance on Municipal Property—The Contributionship extends its Insurances—The Insurance Company of the State of Pennsylvania begins the Writing of Fire Risks—A Riot and Enemy Clause in Perpetual Policy—The Riot Fires of 1844—Camphene—What the Citizens' Mutual was—The Southwark Insurance Company becomes the City and County Mutual Insurance Company—Fires maximizing—Advance in Rates on Merchandise Risks—Asset Accumulations—A New Business escapes the Fire Sweep—The Citizens' Mutual fails to become the City Fire—The Reliance Mutual gets some Fire Experience—The Southern Insurance and Trust Company becomes the Tradesmen's Bank—The Capital Stock of the American reduced—The Marine-Fire Offices strengthened by their Marine Business—Assets of the Mutual Assurance Company—Agencies of Non-State Companies operating from Camden, N. J.—Losses of Philadelphia Companies by the St. Louis Fire of 1849—Companies yet Strong but Business restricted and languishing—The Assets and Experience of the American—Special Act admitting to Non-excepted Parts of Pennsylvania, Non-State Premium Note Mutual Fire Insurance Companies—Technical Fire Loss Settlements—John Donaldson—William D. Sherrerd—Contrast of Marine Average Statement and Adjustment of Fire Loss—Valuation of Fire Destroyed Goods as per Locality and Policy—Non-Concurrence of Associated Insurances—Insurance Subject and Locality—Philadelphia Risks in 1850 and Fire Loss Ratio in the Fifth Decade of the Century—The Great Fire of 1850 with the Losses paid; the Philadelphia Companies sustaining the Whole Risk—"Will Saltpetre explode?" (1840-1850.)*

It may be said that the prominent fire experience of the fourth decade of the century was the development of a higher hazard than estimated in the case of buildings of the second class (brick or stone covered with shingles), containing hazardous merchandise, constituting the technical third class of hazard in a series of four classes in which the premium ranged and advanced from 20 to 90 cents. The manufacturing hazard (steam-power) began at \$1.00; as, for example, "on paper-hangings, manufactured or in process of manufacture,

together with materials, steam engine, utensils and blocks used in making the same, in brick building." The charge for survey in the case was \$1.00. Past practice had shown a tendency in fire premium rating to become usage. It was now matter of precedent rather than of experience, and the conflagration October 4, 1839, produced no spasm in rates, but enhanced the insurances.

District fire insurance companies began to move towards the insurance centre. The Southwark obtained a repeal of so much of its act of incorporation as related to "the location of the said company in the district of Southwark"; this was approved February 6, 1840, and the office of the Southwark was removed to 103 Walnut street. Adventures and experiments at fire underwriting succeeded the organization of the Columbia at a pace which was contrary to the slower movements of prior years in fire insurance, which allowed time for each succeeding organization to grow into something definite in the insurance respect. Besides this, in instances political affinities were the personal bases of organization. There was a supposition that the collection of capital, election of directors and officers, the printing of blanks, the arrangement of rates, the survey of risks offered, and holding secure the unearned premium fund, made an insurance company. In August, 1840, it was announced that applications had been made for the \$50,000 of insurance requisite before issuing policies under the charter of the Citizens' Mutual Insurance Company of Philadelphia, incorporated March 20, 1840. This was a proposition to "insure against loss from fire, houses, stores, merchandize, furniture, libraries, and agricultural products and implements," etc.,—office, Walnut street, south side, first house east of Sixth street; Robert A. Parrish, president, Daniel B. Poultney, secretary. The association of the life business and the trust business produced attempts at fire insurance counterparts. There had been efforts to improve pawnbroking by chartered loan companies, organized to charge the pawner an interest not exceeding 6 per cent. per annum and reasonable expenses. By act of April 7, 1840, the Southern Loan Company of Philadelphia became, with repeal of its loan franchises, the Southern Insurance Company, with same powers and privileges as the Philadelphia Fire and Inland Navigation Insurance Company. April 28, the same year, this corporation became the Southern Insurance and Trust Company of Philadelphia, and the office at south-west corner of Spruce and Second streets—John Lindsay, president, William W. Smith, cashier—was for permanent and limited insurances against loss by fire, also for the accepting of trusts from individuals, corporate bodies, or courts of justice, and also for the receiving of deposits of money on trust and on interest. A dividend of 3 per cent. was declared January 4, 1841, but by act of February 26 the charter capital was reduced to \$250,000—shares \$25 each. An act of April 11, 1840, changed the Mechanics and Tradesmen's Loan Company to the Mechanics and Tradesmen's Insurance Company of Philadelphia, and an office was opened at 64 Walnut street; Samuel Badger, president, A. E. Dougherty, cashier. While the associated fire insurance and trust programme was in vogue, the Reliance Insurance and Trust Company was incorporated April 21, 1841. It was authorized, by direct specification, to prosecute all the forms of insurance established in the United States, together with insurance



upon "every species of property, pursuit, or business, in the pursuit or prosecution of which there is or may be any loss or risk"; also "to take, receive, and hold, in trust or otherwise, any description of property, real or personal." The capital was 5,000 shares of \$100 each, all to be subscribed for at the opening of the books, or while they were kept open; \$5 to be paid on each at the time of subscribing. Four days previous to the incorporation of the Reliance Insurance and Trust Company, the Equitable Insurance, Life Insurance, Annuity and Trust Company was also incorporated, with the same powers as the Philadelphia Fire and Inland Navigation Insurance Company.

The situation of the marine companies kept marine writing free from all new adventurers therein, and the advance of the fire upon the marine business was indicated by the Insurance Company of North America issuing its first perpetual fire policy June 11, 1841; but the burning of an umbrella factory, January 24, on Market street, between Third and Fourth, No. 125, and the firing thereby of No. 123, fancy goods, No. 127, dry goods, with slight damage at No. 129, boots and shoes, involving in all a property loss of about \$130,000, with partial insurance, and such fire occurring within sixteen months after the first general conflagration in the city, was signal to prepare for a new order of fire occurrence in particular localities, in which exposure hazard was of larger account. A different jeopardy—that of extended, low-down, frame structures—was shown, July 5, in the striking of three rope walks by lightning, which were consumed by the fire ensuing, with a loss of \$35,000, partially insured.

The year 1842 opened with a rumor of defalcation, occasioning great surprise, as the first and only breach in long years (reaching back to colonial days) of unsullied official integrity—a deficit of about \$3,000 was, however, all made good, the corporation losing nothing.

The Spring Garden Fire Insurance Company, ready to insure "every description of property, and in any part of the United States, against loss or damage by fire," followed the Southwark to the insurance centre, in so far as to establish a branch office at No. 101 Chestnut street, in April, 1842, there to make insurance, temporary or perpetual, on buildings of all kinds, agricultural, commercial, and manufacturing stocks and utensils, horses and cattle, as against fire, as also mortgages and ground rents; Morton McMichael, president.

By act of July 26, 1842, a yet further reduction of the capital stock of the Southern Insurance and Trust Company was provided for, and accordingly the capital stock was subsequently reduced to \$125,000—shares \$15 each. A dividend of 3 per cent. on the capital was declared in August, while such reduction was pending, and the account given for January 1, 1843, after such reduction was formally made, valued the assets at \$116,327.63, exclusive of the real estate, which was not valued. The real estate held in fee was the company's building at the south-west corner of Second and Spruce streets, and two houses on Broad street above Chestnut. In the valued assets were \$75,818.71 of loans on collateral security, 50 shares of the Spring Garden Insurance Company at \$20 per share, and 703 shares of the company's own stock at \$15 per share.

Publicity of asset condition, required by the act of April 5, 1842, and the revenue and asset accounts enacted by mutual charters, were now bringing out figures of partial exhibits. The Franklin, January 13, 1843, made a fire insurance asset exhibit, and the Franklin had the ability to show the greatest asset value of any insurance company in the place where American fire insurance began.

## FRANKLIN FIRE INSURANCE COMPANY OF PHILADELPHIA.

Statement of the assets of the said company on January 1, 1843, in conformity with the provisions of the sixth section of the Act of Assembly, of April 5, 1842:—

*Mortgages.*

All of which are well secured, being <i>first</i> mortgages on real estate, free of ground rent, viz.:	
In city and county of Philadelphia, . . . . .	\$528,041 11
In Montgomery and Schuylkill counties, Pa., and in Burlington and Gloucester counties, N. J., . . . . .	22,150 00
In Ohio, amply secured by real estate in Philadelphia, . . . . .	7,500 00

*Loans.*

Temporary loans, payable on demand, on stocks and other securities as collaterals, . . . . .	207,730 00
Borough of Harrisburg, with individual guarantee, . . . . .	5,000 00

*Real Estate.*

Purchased at sheriff's sales under mortgage claims, viz.:—

Messuage and lot of ground, 33 by 100 feet, on north side of Chestnut, west of Broad street, . . . . .	4,921 00
Eight messuages and lot of ground, 70 by 150 feet, on south-west corner of Chestnut and Schuylkill Sixth streets, together with money expended on improvements now progressing, . . . . .	17,410 00
Farm of 60 acres, with mills, dwellings and barn (called Sheffield Works), Germantown, . . . . .	10,403 38
Messuage and lot of ground, 18 by 106 feet, on south side of Filbert street, west of Schuylkill Seventh street, with claim on L. Ellmaker's estate, . . . . .	5,517 82
Cash on hand, . . . . .	12,195 03
Cash in hands of agents, available at sight, . . . . .	9,318 61
Bills and notes receivable, . . . . .	6,144 25
Unsettled policies, . . . . .	1,218 75
	<hr/>
	\$837,550 69

Capital stock, . . . . . \$400,000

By order of the Board,

C. N. BANCKER, President.

Attest: CHAS. G. BANCKER, Secretary.

*January 13, 1843.*

Under sales foreclosing mortgages, real estate was becoming an increasing asset item in the statements of companies, limited in ultimate growth, however, by charter restrictions on the holding of real estate in fee. The real estate owned by the Franklin advanced from \$38,252.22 (cost price) at the beginning of 1843, to \$81,829.30 at the close of the year; there being thus an increase of \$43,577.08 in real estate owned, against a total asset increase of \$17,949.01. Notwithstanding the troubled monetary situation out of which arose such asset condition, the dividends of the Franklin had now advanced to 10 per cent. per annum on the capital stock, or \$40,000. Its perpetual premium fund was at the time about \$275,000.

The disconnection of residence from place of business had begun to affect the ratio of loss on burning buildings, with fires breaking out at night. Accordingly, James S. Smith, who was elected secretary and treasurer of the Contributionship, January 6, 1842, began in 1843 the preparation of a table to show, as fires should occur, the difference in percentage of loss on insured sum, as

between buildings inhabited at night and those not inhabited. Such non-residence was, however, more significantly enhancing the fire cost of merchandise risks than of buildings. As partly a place of residence, the store had some degree of the security of the dwelling house.

With the prevalence of the mutual theory now affecting all departments of insurance organization, a supplement was procured to the Reliance Insurance and Trust charter, which was approved April 18, 1843, constituting the Reliance Mutual Insurance Company. [Insurance to be either joint-stock or mutual, at the option of the applicant.]

SEC. 1. Capital reduced to \$150,000—shares to be \$50.

SEC. 4. No part of the income or profits of the said company shall in any case be withdrawn, except as herein provided for, but the same shall remain, equally with the capital stock, liable to the payment of all the losses and expenses thereof. And such liability shall be expressed on the face of the certificates to be issued as aforesaid; nor shall any interest be paid, dividend declared, or certificates issued, either to stockholders, insured members, or certificate-holders, whereby the capital stock of said company shall be reduced or impaired; nor shall any interest or dividend be paid on any certificates, until the interest on the capital stock shall first be provided for.

SEC. 5. [Certificates of profit not to be less than \$25—and not to be issued to any one indebted to the company. Certificates subject to any judgment the company may obtain against the holder thereof. Interest of holder may be sold on execution of such judgment like other property.]

SEC. 6. No insured member, certificate-holder or stockholder shall, in any case, be liable over and above the precise amount of the premium paid by him, or the amount of the certificate, or the amount of the stock held by him; and when such premium, or such certificate, or such stock shall be absorbed by the losses, debts or expenses of said company, all liability or responsibility on his part shall cease.

SEC. 10. The said company may, from time to time, receive notes or other securities, real or personal, for premiums from persons intending to effect insurances therewith, or from any other person or persons, under such regulations or agreements as shall be authorized by the directors, which said notes or other securities may be negotiated, transferred, or conveyed by the said company, for the purpose of paying claims for losses accruing in the course of its business; and on such portion of the said notes or securities as may exceed the amount of the premiums paid or agreed to be paid by the parties from whom the same may have been received, the said company may allow and pay such interest or other compensation not exceeding five per cent. per annum, as may be agreed upon by the directors.

SEC. 11. No loan of any part of the capital stock or other funds of said company shall, in any case, directly or indirectly, be made to any director, officer or agent of said company.

In a few weeks the following notice appeared:—

#### RELIANCE MUTUAL INSURANCE COMPANY.

Notice is hereby given, that in conformity with the provisions of the charter of the Reliance Mutual Insurance Company of Philadelphia, a book will be opened by the undersigned commissioners for the purpose of receiving subscriptions to the stock of said company, on Thursday, the 1st day of June, 1843, at No. 17 Walnut street (up stairs), which will be kept open for three consecutive days, from 10 o'clock A. M. until 2 o'clock P. M. on each day.

J. B. Trevor,  
Robt. Toland,  
Sam'l Bispham,  
Peter Wright,  
Thos. Snowden,

Rich'd D. Wood,  
Isaac R. Davis,  
Geo. H. Oliver,  
Wm. J. Leiper,  
J. L. Fenimore,  
Thos. Hayes,

Evan Rogers,  
J. Coleman Fisher,  
Chas. Harkness,  
Ephraim Haines,  
B. M. Hinchman.

The charter of said company, together with a prospectus, showing the nature of the business proposed to be transacted, and the plan upon which, by combination with the Mutual Safety system, a portion only of the capital stock will be required to be called in, will be exhibited, and any information given in relation to the company by either of the subscribers.

B. M. HINCHMAN,  
SAM'L G. WALKER.



Meanwhile the Mutual Fire, of Germantown, incorporated in 1843, was organized, and issued its first perpetual policy June 29, 1843.\*

The Mechanics and Tradesmen's Insurance Company disappeared in 1843 with as little formality as had attended its coming. January 1, 1844, the total assets of the Fire Insurance Company of the County of Philadelphia were \$132,817.92, of which \$8,926.57 were real estate (house and lot No. 243 North Third street) and \$13,955.50 second mortgages on real estate.

The year 1844 opened with the fire underwriters restive and apprehensive under the disorderly condition of the fire department, weavers' riots, etc. An ordinance was passed For the Better Regulation of the Fire Department by the city and districts, which became ground of contention. There was some division of sentiment among the fire companies—all not opposing the proposed reforms; but at a meeting of firemen held early in February at the county court house, the following resolution was adopted:—

*Resolved*, That we recommend to every company in the city and county of Philadelphia, of which we are the representatives, as well as all others not represented in this convention, to take the most direct and efficient method of demonstrating the follies of the authorities of the several districts in the enactment of this ordinance. We therefore recommend to the respective companies of the fire department to *retire* from service, one and all, individually and collectively, on and after the 1st of March next, except in case where the property insured by the Fire Association is endangered by the flames, or unless said ordinance be repealed.

It was stated that five engine and fourteen hose companies acceded to this.

There was no proposition by the fire underwriters to withdraw from their risks in the exigency threatened. They united with all well disposed citizens in the cause of public order and safety, and memorials of citizens to the municipal legislators pronounced the ordinance right, and called upon them to be firm in upholding the supremacy of law. Finally fourteen out of twenty-five companies belonging to the Fire Association agreed to accept the ordinance, and there was a lull in this disquietude. The resolution of the malecontents was a virtual declaration that the fires of the city would burn themselves out as they successively occurred; at least they seemed to conceive, so far as there was any intelligence in the threat, that they could hold the properties insured in the Fire Association safe against the unextinguished burnings among all the rest of the property in the city. May 8, 1839, the Pennsylvania Fire Company had voted to disband, on the ground that the volunteer fire department had lost its former respectability and usefulness, and favored the idea of the fire apparatus "becoming the property of the City Corporation." The resolution quoted and the disbanding of the Pennsylvania both pointed one way.

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\* The following three mutuals were incorporated in 1843—the last two being specified (in short acts) to have the same privileges as the first—and all three having their business confined to the counties of Philadelphia, Bucks, and Montgomery, viz.:—

1. Independent Mutual Fire Insurance Company of Bucks, Montgomery and Philadelphia counties. February 10, 1843.
2. Frankford Mutual Insurance Company of Philadelphia. April 5, 1843.
3. Germantown, Roxborough and Bristol Mutual Fire Insurance Company, in the county of Philadelphia. April 15, 1843.

The first named had the plan of requiring one-tenth premium in cash, and the rest in a note—5 per cent. interest thereon. All the charters for twenty years.

With fires increasing, and if not in number, in extent of burning, the disturbed condition of the volunteer fire department causing public meetings of citizens to devise means for preventing riots, and the inefficient extinguishment of fires enhancing the average loss per fire—partly due to the circumstance that the conditions of combustibility were gaining upon the means and methods of extinguishment—there was much public uneasiness as to the fire jeopardy. Councils appropriated early in the year 1844 the sum of \$5,128.50 as a perpetual deposit (average 4.24 per cent.) for the insurance of \$121,000 on municipal property, distributed as follows:—

Permanent bridge, . . . . .	\$30,000
Tobacco warehouse, . . . . .	25,000
Five storehouses on Front street and seven on Dock street, \$2,000 each, . . . . .	24,000
State House and steeple, . . . . .	20,000
City Hall, . . . . .	10,000
City storehouse (Schuylkill), . . . . .	7,000
City carpenter shop, . . . . .	1,500
Two houses on Ann street, . . . . .	1,500
House (Beaver court), . . . . .	1,000
House on Water street, . . . . .	1,000

At a general meeting of the contributors held in April, 1844, after the election for directors, the Contributionship made an advance upon its assumptions of hazard by adding the following clause to the deed of settlement:—

New and unfinished buildings may be insured in this Society. Buildings wholly or in part *Wood*, attached to or appurtenant to brick or stone buildings, may be insured with the latter upon such terms and conditions as the directors shall from time to time establish.

Adding fire risks to its marine writing, the Insurance Company of the State of Pennsylvania issued its first perpetual fire policy April 18, 1844. In this the growth of exemption from consequences arising from the setting aside or impeding of the regular civil authority had reached the following stage, as per No. V of the Conditions:—

The assurers are not responsible for the consequences of fire occasioned by any invasion, foreign enemy, civil commotion, riot, or any military or usurped power whatsoever. And the policy shall remain suspended, and be of no effect, in respect to any damage which shall happen or arise during the time of any such accident or disturbance.

This was one respect in which the perpetual policy of the Insurance Company of the State of Pennsylvania differed from that of the Franklin (*ante* 344), but otherwise the terms were the same.

The earliest perpetual insurance policies did not contain the exception at all, leaving the company's responsibility as a question of subrogation. Then the first sentence of the foregoing citation became the usage, the words being an accretion from the original English phraseology, "invasion, foreign enemies, or other military or usurped power." The second or last sentence introduced a question for judicial interpretation, as to whether the suspension of the policy could apply to losses not the consequence of the social disturbance in the locality affected by the conditions named.

In June, 1843, the jury appointed to ascertain the damages to be paid by the county for the burning of Pennsylvania Hall in 1838, fixed the amount at \$22,658.27. May 3, 1844, began what were called the "Native American" riots, which started from an assault upon and breaking up of a meeting of the

Native American party, held upon a lot at the south-west corner of Second and Master (or Masters) streets, Kensington. Rioting continued for a week in this section of Kensington, during which building after building was fired in this assailed quarter, and the burners also crossed the line to the city proper and fired St. Augustine's church, on Fourth street, south of Vine. The firemen were permitted to check extensions of the flames, and only on one night did the burnings assume the proportions of a general conflagration, the conditions not being favorable to an extended inflammation. An account given of the property destruction was as follows:\*

## BURNED.

St. Michael's church, parsonage, and large school-house, and residence of the Sisters of Charity, . . . . .	\$75,000
St. Augustine's church and parsonage, . . . . .	45,000
Market-house, . . . . .	4,000
Seventeen houses, two and three stories, brick, and contents, . . . . .	23,600
Twenty-four houses, two-story frame, including some workshops (yarns and textile fabrics not estimated), . . . . .	13,650
	<hr/>
	\$161,250

## SACKED.

Hose-house, . . . . .	1,000
Seven two and three story brick houses, . . . . .	6,900
	<hr/>
	\$169,150

There was another outbreak July 5. The objective point then was St. Philip de Neri church, Queen street, between Second and Third, Southwark. This church was saved by the interposition of members of the Native American party, and though rioting continued for four days, no property was burned. Here the actual conflict of the mob was with the military.

The first election for directors of the Reliance Mutual Insurance Company was held August 7, 1844. George W. Toland was chosen president, and B. M. Hinchman secretary—office 92 Walnut street. In addition to initial payment of \$5 per share at subscription, further payment was arranged for by an instalment of \$5 per share to be paid November 1, 1844, and \$10 per share, bi-monthly, on the first Monday in January, March, May, and July, 1845, with discount at 5 per cent. to those anticipating these dates.

Camphene coming into use as an illuminant, contributed to augment the fire problem. This hydrocarbon (the carbon 88.46 per cent.) was a rectified oil of turpentine—the water of the oil of turpentine being freed by distilling over chloride of calcium, or some similarly active substance. It was made available for lighting by special lamps and chimneys to supply the requisite air currents.

When fire jeopardy presents such a front as calls imperatively for the exercise of prudence and anxious care, the mere saving of any part of premium is apt to give place to the paramount matter of security. The Citizens' Mutual Insurance Company was a project to establish a non-dividend office for policyholders, similar to the Contributionship and the old Mutual

\* A Full and Complete Account of the Late Awful Riots in Philadelphia. J. B. Perry: Philadelphia, 1844.



Assurance (Green Tree), but to comprehend the insurance of personal as well as real property and temporary as well as permanent risks; all surplus accruing from premium and interest on temporary risks for safeguard against future contingencies. Apparently the fire peril called for the founding of such an office, and the attempt was praiseworthy, but with four years' experience the managers of the Citizens' Mutual realized the potency of dividends as part of the mutual programme. Everywhere the attempt to establish new insurance companies was showing that the later builders were not like the first, but apart from this the conditions under which the Hand-in-Hand and the Green Tree were founded had ended. The holder of a temporary policy could not reason out that what secured as against the future was double security as to the present, and further, the average policyholder had such proclivity for dividends under the stimulus of the mutual doctrinaires that he was ready to take the normal position, which is, where one grudgingly pays a dollar of premium for security, he will cheerfully pay two dollars for the chance of getting back fifty cents as dividend or profit.

The Southern Insurance and Trust Company, not mutual, was also approaching the end of its brief career as a fire insurance office with the termination of 1844; the trust and deposit departments leading to other financial practices, change of corporate powers and title was proposed, with the view of establishing a banking institution.

In the shifting from stock to mutual insurance, the Southwark Insurance Company was authorized to wind up by an act of March 17, 1845, and change to the City and County Mutual Insurance Company.

Fires were maximizing. In the district of Pittsburgh devastated by the fire of April 10, 1845,\* the American sustained a loss of 38,000, the Franklin a loss of \$19,936.† There was nearly an equal exemption with respect to the New York fire of July 19.‡ Loss of the Spring Garden Insurance Company, which had a New York agency at the time, was, however, \$95,000. The American lost \$30,000. The site of the New York fire of 1845 was between Broadway, Exchange Place, Broad and Stone streets. Number of buildings destroyed in New York was less than one-third of the number destroyed in Pittsburgh, but the loss was 50 per cent. greater.

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\* This conflagration swept over 60 acres of the densely built business portion of Pittsburgh; loss, 982 buildings and their contents; value of the former \$1,566,500, of the latter \$1,913,450, total \$3,479,950. There were applicable policies for about one-fourth of this sum in such Pittsburgh companies as were in existence the day before the fire, and a very small percentage was insured elsewhere. Nearly one-half of the total insurance was in two Pittsburgh offices—the Firemen's and the Fire and Navigation. In Allegheny City, on the opposite side of Allegheny river, there was a fire loss of \$200,000 May 17. In the subsequent efforts to establish fire insurance companies in this locality, two were incorporated in March, 1849, which yet exist.

† Semi-centennial address of President Alfred G. Baker (1879).

‡ The New York fire insurance companies were 25 in number at the occurrence of the great fire in 1835, with stock capitals amounting to little less than \$8,000,000. This fire caused the insolvency of all but seven of such companies, and the capitals of these seven were impaired. Only about \$1,000,000 of actual fire insurance capital was left. Insolvent companies paid from 40 to 90 per cent. of the claims under their policies. To meet the deficiency in fire insurance capital, several mutuals were started. A part of these passed out of existence as old stock companies were revived, and the fire of 1845 swept away most of the remaining mutuals and caused the insolvency of several of the stock companies, and none of the latter were ever resuscitated. (Decennial address of President Charles J. Martin, of the Home Insurance Company of New York: 1863.)

After midsummer, 1845, the rates on merchandise risks were advanced in Philadelphia an average of about 50 per cent. Fire insurance assets were somewhat increasing, in large degree through the accumulation of perpetual deposits and the charter prohibition of dividends upon undetermined temporary risks. Upon the companies was the moral obligation not to imperil the perpetual deposit funds by inadequate rates on mercantile and manufacturing hazards. The American Fire, conspicuously at the front in sustaining against the perils of the various temporary risks, and noted for the prompt payment of its losses, was experiencing inroads upon its funds which had reached the extent of impairing its capital, which was the largest stock capital in the city securing against fire loss. At the close of 1845 the assets of the Franklin were \$962,217, of the Pennsylvania Fire \$581,436; showing for the Franklin an accumulation (accretions from business) of \$562,217, and for the Pennsylvania an accumulation of \$362,217. From its commencement in 1829 to the close of 1845, the Franklin had paid over one million dollars of losses. After more than ninety years of growth the assets of the Contributionship were rather less value (as to amount) than the accumulations of the Franklin. January 1, 1846, the asset list of the Contributionship was as follows:—

Real estate—Fourth street, between Walnut and Spruce, office of the company, [described, not valued.]	
Mortgages—first [all in the city and county of Philadelphia, except on two farms—one in Delaware and one in Montgomery Co., Pa.], . . . . .	\$458,816 89
Five per cent. loan, State of Pennsylvania, . . . . .	6,371 15
Masonic loan, . . . . .	5,000 00
Philadelphia county loan, 5's, . . . . .	8,186 94
“ “ “ 6's, . . . . .	1,916 67
Six per cent. loan, United States, . . . . .	11,600 00
Schuykill Navigation Co., . . . . . 418 shares.	} [not valued.]
Philadelphia Exchange Co., . . . . . 25 “	
Bank of United States, . . . . . 25 “	
Bank of North America, . . . . . 13 “	
Cash on hand, . . . . .	4,156 27

About one-half of this accumulation was the result of interest earnings in excess of loss payments on the buildings insured, and expenses free from commissions to brokers; and this is to say that approximately one-half of the Contributionship's funds were net surplus.

With less than two million dollars on outstanding risks, the Reliance Mutual, the most recent fire office, escaped in 1845 the severity of the fire damage, and its asset account January 1, 1846, gave a total of \$113,323.09. The income and disbursements of 1845 were:—

Premium receipts, . . . . .	\$13,207 32	Losses paid, . . . . .	\$ 371 22
Interest, . . . . .	4,560 99	Expenses, . . . . .	4,074 00
	<u>\$17,768 31</u>		<u>\$4,445 22</u>

A legislative enactment approved March 14, 1846, was the formal termination of the attempt to establish another non-dividend fire insurance company in the city. By this act the commissioners of the Citizens' Mutual Insurance Company were empowered to open books of subscription to the capital stock of the City Fire Insurance Company of Pennsylvania; as soon as 500 shares were subscribed at \$10 each, the franchises of the Citizens' Mutual were to pass to the City Fire, but the latter incorporation was never organized.





The 3 per cent. tax on premium, with the license fee and other obligations, still deterred non-State fire insurance companies from availing themselves of the authorization provided by the act of January 24, 1849, and Camden, N. J., still continued to be the official quarters of companies seeking Philadelphia fire risks exclusively. The Norwich Fire Insurance Company of Connecticut had, however, a Philadelphia representative at No. 4 South Front street—Robert Ralston, agent. This company, which had begun in 1803, was one of the earliest of Northern offices to limit its insurance to 75 per cent. of property as valued, and it was announced that it “never had a trial at law in a business of thirty years,” and as taking “risks not exceeding \$5,000.” The Norwich increased its capital in May, this year, from \$100,000 to \$150,000.

Within four months after the removal of the prohibitory tax on non-State companies, the general necessity of dividing the fire risks of cities between local and non-local companies was further exemplified by a fire at St. Louis, May 17.\* This fire cost Philadelphia offices about \$425,000, viz.: Franklin, \$294,855; American, \$100,000; Delaware Mutual, \$30,000. Part of the Philadelphia offices had gradually extended their fire risks in other States. This and other experience abroad now checked the extension of the business of such offices, and for years very largely limited the writing to risks in Philadelphia and vicinity, and such restriction was followed as non-State companies more and more competed with the local offices for Philadelphia risks. Though the field was not large, the fire and marine-fire companies incorporated before 1830 were strong in their field. Of these, the American had withstood the severest ordeals; its stockholders had served the public better than they had served themselves, but in spirit and resources this old institution was as ready for the exigencies of the years to come as it had been fearless and strong in the forty years that had gone. Away back in 1810 Secretary Edward Fox wrote, “we should endeavor to extend the company’s usefulness.” Its usefulness had extended. At the opening of 1849 the valued and unvalued assets of the American Fire were:—

Bonds and mortgages on real estate in the city and county of	
Philadelphia, . . . . .	\$179,122 22
Loans on collateral security, . . . . .	28,024 00
Real estate, . . . . .	212,244 77
Ground rents, . . . . .	60,620 78
Interest and ground rent due and unpaid, . . . . .	1,483 50
Other debts due the company, . . . . .	3,129 28
Bills receivable, . . . . .	33,354 93
Cash, . . . . .	7,680 02
Franklin Institute 5 per cent. loan, . . . . .	\$2,500 00
Tennessee 5 per cent. loan, . . . . .	2,000 00
Schuylkill Navigation 6 per cent. loan, . . . . .	10,360 00
“ “ 5 “ “ . . . . .	2,000 00
“ “ stock, . . . . .	475 shares.

\* The St. Louis fire of May, 1849, destroyed fifteen blocks of buildings and twenty-three steamboats. Total loss was estimated at \$3,000,000, and probably under-estimated, as about 70 per cent. of such loss would have been covered by insurance. There were seven local fire insurance companies at the time of the fire, and these carried about \$1,000,000 of the insurances in the burned district; the policies of fifteen other-State companies were largely in excess of this amount, and their losses were paid in full. Three of the St. Louis companies were made bankrupt. The Citizens paid 30 per cent. of its losses, the St. Louis 33½ per cent., the Union 50 per cent. By the four St. Louis companies paying in full, \$208,000 were paid; the other St. Louis companies paid \$268,000. By the other-State companies nearly \$1,250,000 were paid.

Philadelphia Exchange stock, . . . . .	15 shares.
Union Bank, Tennessee, stock, . . . . .	40 "
Lancaster Turnpike stock, . . . . .	18 "
Mercantile Library stock, . . . . .	7 "
Union Canal Co. stock, . . . . .	160 "

In the accidents, caprice, or purpose of State legislation, the programme to admit non-State companies had been extended in so far as to admit, by act of February 19, 1849, mutual fire insurance companies of the adjoining States upon the agent of any such filing in the office of the secretary of the commonwealth a copy of his appointment, under the common or corporate seal of the company. An annual report of certain items was required to be published "for three months in each year in a newspaper published in Philadelphia, Harrisburg, or Pittsburgh." But such companies were prohibited from becoming insurers within the limits of any city, borough, or corporate district, or in the counties of Bucks, Lancaster, York and Delaware.

Settlements of partial fire losses were now becoming almost as numerous in character as in number. At first a committee of the trustees or directors had visited the site of the fire to pass upon the claim, after the loser had given notice to the secretary with more or less of "as particular an account of the loss or damage as the nature of the case would admit of." Differences of judgment and of estimates were the cause of more contention than the attempts of one party to overreach the other. Proofs of loss were growing into form in relation to the essential policy stipulations, and questions of policy application, risk limitation, trade usage, measure of damage, and prices current were multiplying. Gradually the appraisement of the cash value of the damage from the particular business standpoint became supplemented by the technical settlement called Adjustment, which made up the account from the initial application, through all the conditions of the particular insurance, according to the representations, the warranties, and the concomitants of the contract. Always the insurance was conditioned as matter of necessity, practicability and definition, but the written words controlled the printed ones, and the purpose of the policy to insure was carefully guarded by the courts; as being unilateral the policy was liberally construed in favor of the insured, and in something of basis and composition the contract remained in parol (*i. e.*, the absolute letter could not altogether destroy the spirit of the contract), and the course of adjudication was portraying the legal relations of insured and insurer to each other, as respectively loss claimant and loss payer.\* Particular persons began to be

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\* We give the following illustrations:—

1. Valuation of goods:—

Hugh Findlay, to the use of Andrew B. Spence, his assignee, against the Franklin Fire Insurance Company, in the District Court of the City and County, was an action of covenant brought on a policy dated January 31, 1831, whereby the company insured "merchandise such as is usually kept in a country store, contained in two two-story frame stores and warehouses, designated as Nos. 1 and 10, in a plot on file in the office, situate on the east and west side of Main street in the town of South Florence, Alabama." "On each building, \$4,000." By a memorandum written in the margin, and dated April 11, 1831, it was agreed that after that date the insurance should apply to the building No. 1, in the plot, agreeably to a letter of such date. The goods were levied upon by the sheriff by virtue of an execution, and the sheriff took actual possession and left the goods in the store, the doors of which he fastened and nailed up the windows, then went out of town, taking the keys; and during the sheriff's absence, September 28, 1831, a fire took place, which destroyed the building with its contents. There was no stipulation or agreement in the policy as to goods or property under levy, and it was held that the loss was payable.



assigned by the offices to the settling of the loss accounts according as they showed aptitude for such settlements. John Donaldson and William D. Sherrerd were public adjusters of fire insurance losses in 1849, as their services might be called for. Both of these had been adjusters of marine averages. Fire insurance loss was like particular average, in so far as to their being an accounting of the fraction or proportion of any depreciation suffered by the particular subject insured through the peril provided against. Indemnity for fire loss was, however, according to market value at date of fire. Fire insurance adjustment was always in the nature of a partial loss, but its partial loss was of

Annexed to the deposition was an inventory of the contents of the store, taken by the sheriff before the fire, with a valuation made by a witness, who testified in respect to it as follows: "I have, in conjunction with Mr. Henry A. Bragg, a merchant of this place, valued an invoice or inventory of merchandise submitted to us, and hereto annexed, marked (A), and have examined and valued each and every article therein contained, according to the best of our judgment of the value of such goods, as purchased by us in the eastern cities about that time, and extended and footed the said inventory on a separate and distinct piece of paper, and find the value of said goods to amount to twenty-eight hundred and ninety dollars and seventy-five cents, estimating them at their net first cost in said cities, and adding thereto the sum of two hundred and eighty-nine dollars and seven cents, being ten per cent. for costs attending the purchase and transportation of said goods to South Florence, Alabama, which together makes the gross sum of thirty-one hundred, seventy-nine dollars and eighty-two cents."

Evidence was also given respecting the positive and relative value and cost of goods in Alabama and Philadelphia.

The Court: "And as in this case the company did not furnish the insured with a like stock, the only rule to be observed is to ascertain what sum of money would, if paid to the insured at Florence, Alabama, within thirty days from October 28, 1831, have been equivalent to the damage or loss sustained; or what sum of money would have enabled him to have purchased a similar stock, and thus reinstated himself. All notions of prospective profits to be earned in a year or two, by skill, labor and time, are excluded and inadmissible; they might have been the subject of insurance, but by a different form of contract. The next estimate furnished by the plaintiff is the amount of the inventory of the plaintiff, and an appraisement made since the fire, predicated on the cost at Philadelphia, with 10 per cent. carriage, and interest thereon. A third mode of estimating the loss is founded on the testimony of Mr. Lindsay, and insisted on by the plaintiff, viz.: A new stock, selected at Philadelphia, would sell at Florence for cost, carriage, and 16½ per cent. advance on credit, allowing 5 per cent. to cover bad debts. This is what such a stock would bring; but still leaves the question unaffected, what could the plaintiff buy for? The same intelligent witness says that at Nashville the plaintiff could have replaced his stock at cost, carriage, and 16½ per cent. on Philadelphia prices; meaning at four to six months' credit at Nashville, and that 2 or 3 per cent. would come off for cash. As to the sheriff's sale, the witness did not think the stock would have brought first cost in September, 1831,—money being then very scarce. The same if no market existed at Florence to buy such a stock, then the market to which resort is usually had may be taken into view by the jury, to enable them to make an estimate; in this way alone does Nashville, Philadelphia, or any other place than South Florence, become of importance. The jury will exclude the demand of the plaintiff for the \$80 premium; it is what he paid to hold the defendants liable—the consideration of the contract; and surely, if he recovers for a loss, that consideration belongs to the defendant. The question of interest alone remains to be settled. It must be 6 per cent., and no more; the contract was made here, and the plaintiff must have contemplated our laws at the time, so far as interest is concerned. If the contract had been made in Alabama, another rule might prevail—a higher rate of interest being there allowed."

The judge added that he reserved all the points of law for the consideration of the whole court. The jury found for the plaintiff \$3,685.92, and the District Court ordered judgment to be entered on the verdict.

District Court: "If the conduct of the sheriff is so plainly unusual and irregular as to endanger the property and increase the risk beyond the ordinary effect of a levy, the underwriter can make it matter of defence."

Supreme Court. In Error. Kennedy, J.: "It cannot be admitted that the assured must have at the time of the loss the same interest in the goods that he had at the time of procuring the policy, in order to entitle him to claim for a loss actually sustained by a peril insured against. . . . There is not any ground, so far as the evidence goes, upon which any increase of risk can well be imagined. Judgment affirmed." (6 Wharton, 482.)

## 2. Non-concurrence of associated fire insurances:—

Fire occurred January 7, 1834, at the store of J. B. & D. B. Stacey, commission merchants, No. 37 South Wharves, Philadelphia. Policy No. 88, Franklin Insurance Company, \$10,000 on goods; premium, \$25; one year from October 16, 1829, "according to the tenor of their printed proposals and conditions hereunto annexed, upon\* merchandise generally, including liquors and groceries contained in store No. 37 South Wharves, for account of whom it may concern—say merchandise without exception."

"Notice of a further insurance of \$10,000 at the Pennsylvania Fire Insurance Company, given this day," [December 1, 1829,] continued by endorsement; and "No. 3432—Received July 6, 1832, \$20 for continuance of \$8,000 insurance one year to noon July 6, 1833, C. N. Bancker, sec."; and "No. 5261—Received July 6, 1833, \$22 for continuing this insurance one year until noon July 6, 1834, for the sum of \$10,000, C. N. Bancker, sec., per Chas. G. Bancker."



like form, whether, for example, out of ten like packages of merchandise of like value, two were damaged 50 per cent. or one of the ten were totally destroyed. When companies respectively contributed to a common loss, the arithmetical rule of simple fellowship supplied the simple fundamental formula, as vessels, goods and freight contributed for losses and expenses in a general average; but as companies diverged rather than concurred in co-insurance or "double" insurance, problems respecting apportionment of loss between or among them, as contributing more or less specifically or more or less generally, became more complex, or rather more indeterminate. As between the average

Hazardous risks specified in six sections. Note: "The liberty of dispensing with the restrictions in the foregoing article may be allowed as follows:—

"For Section 1, by inserting the words merchandise generally. For all sections (in part), by specifying the risk to be insured—or wholly declaring it to be an open policy."

Policy No. 17,040, by The President and Directors of the Insurance Company of North America: "Twelve dollars premium for insurance of \$15,000 on coffee, and other merchandize without exception, either on board the ship John Sergeant in this port, or in the brick store No. 37 South Wharves, in the city of Philadelphia, from loss or damage by fire while the said merchandize shall be and remain in the building aforesaid, for four months, to expire at 12 o'clock at noon of the Twenty-third day of March, 1834." (*Ante* 351.)

There was no notice of other insurance in either policy, whether through inadvertence or otherwise, was testified to. Other insurance, following Philadelphia marine usage, had been successive in application, not conjoint; but a *pro rata* regulation had been introduced. Franklin: "Such other insurance to be endorsed on their policies; in which case each office shall be liable to the payment only of a rateable proportion of any such loss or damage." Insurance Company of North America: "This company will bear rateably, and no more, any loss from the perils hereby insured against which may happen to the said property, in proportion to the several insurances existing thereon."

Mr. Bancker, of the Franklin, aimed at precision in practice. In his judgment fire policies were loosely drawn, and the practice in Philadelphia more loose than in New York. The loss was in excess of \$10,000. Claim as for total loss was made upon the Franklin, and the Franklin paid, under an arrangement to accommodate the insured, two-fifths of the loss as calculated by the insured; such payment to be without prejudice to any claim for the remaining three-fifths. Of the coffee which had arrived in the John Sergeant, value \$1,844.50 was destroyed, and this, with other items, bringing the total to \$2,009.50, was paid by the Insurance Company of North America.

Was the Insurance Company of North America co-liaible with the Franklin for "merchandise without exception" "in the brick storehouse No. 37 South Wharves"? or could the insurance be specific and isolated on the *cargo* discharged without importing other words into the contract?

The case against the Franklin came eventually for trial before Kennedy, J., at a court of Nisi Prius held at Philadelphia, November 27, 1840. Testimony was taken *pro et con* as to insurance of same goods for same sum for same premium in distinct buildings. [That is, for example, an insurance of \$15,000 on goods worth \$30,000 is an insurance of \$30,000 of value against \$15,000 loss, whether \$30,000 be in one building, or \$15,000 be placed in each of two buildings. Such practice was discontinued or interrupted by the fire of October, 1839.]

By the Court: According to the common and generally received acceptation of these words, the idea conveyed thereby would be "coffee and other merchandize," in either of those two places at that time, or at any future time during the four months. But it is contended that this could not have been intended by the parties, because, in effect, it would be an insurance for \$15,000 on coffee and other merchandize in each of the places, for the same premium only that would have been required for an insurance of the same amount of goods of that value in one only of the places. And although this may be the natural import of the words, yet it is said that because it is unreasonable, it is therefore proper, at least, if not necessary, to vary the natural meaning of them somewhat, so as to give to the clause containing them a more reasonable and just operation; and that this may be done by construing it an assurance "on the coffee then on board the ship John Sergeant, for the space of four months thereafter, whether it remained on board the ship or should be removed into store No. 37." It is argued also that the disjunctive conjunction "or" being employed to connect the ship and the store, in the clause under consideration, renders this construction proper, and distinguishes it from the case of such connection being formed by the use of the conjunction "and"; as, for instance, if the policy had been for \$15,000 on coffee and other merchandize on board the ship John Sergeant and in the store No. 37 South Wharves.

The verdict was for plaintiffs, \$6,491.36, being the full remaining amount of their claim, with interest.

After argument on motion for a new trial. Supreme Court. Rogers, J.:

The plaintiffs insured to the amount of \$10,000, a sum supposed to be sufficient to cover the ordinary risks to which their property and the property of their consignees would be exposed from fire. Under these circumstances the John Sergeant arrived in port, having on board coffee principally, and some other articles of comparatively small value, which it was thought prudent also to insure; and as it was uncertain whether the cargo would be suffered to remain on board, or whether it would be stored in whole or in part, it was insured as coffee either on board the John Sergeant or in the brick store No. 37 South Wharves. If this were all, it would, I think, be held to be a specific insurance on coffee to the amount of \$15,000, whether it

stater and the fire loss adjuster, the former was more of an accountant than the latter, the latter more of a bargainer than the former. The marine loss adjuster admitted in his account the premium paid as part of the cost or value of the property lost; the bargain of the fire loss adjuster held that the fire insurer had already rendered, or was rendering,\* consideration for the premium received. The account of the one charged off one-third new for old; the bargain of the other could not so deduct, yet he proceeded as best he could for the interest he represented.

remained altogether on board, or was altogether or in part removed into the store. But such is the looseness of expression that even this construction would be doing some violence to the language. The insurance is on coffee and other merchandise without exception, either on board the John Sergeant, or in the store. What is the meaning of the words "and other merchandise without exception" connected with the other parts of the assurance? The defendants say they apply to the subject matter of insurance, and that it is an insurance on coffee and other merchandise, whether on board vessel in the port, or in the store; whether imported in the ship, or received in store from other sources. If this be so, it is on the same goods embraced in the Franklin insurance, and the defendants are only entitled to their proportion of the loss, viz., two-fifths, that is, as \$10,000 is to \$25,000.

The plaintiffs insist that being sufficiently insured already to cover ordinary risk to the general business as commission merchants, the object of the second insurance was to effect a specific insurance on the coffee brought by the John Sergeant, whether it remained on board or was stored. That the reason for inserting the words "and merchandise without exception" (which were taken from the policy of the defendants themselves, where they were used for a similar purpose), was to prevent the policy being avoided by having on the premises what they would be likely to have, in their business, certain goods enumerated in the policy as hazardous risks, or, in other words, they were desirous of having what has been denominated a clean policy. Although, it must be confessed, there is some doubt about it, yet we incline to adopt the latter construction. If, as is alleged, the first insurance was sufficient to cover all probable risks to which the goods usually in the store might be exposed from fire, it is difficult to imagine why an additional insurance, to so large an amount, should be effected, as it has not been intimated that any doubts were entertained of the entire solvency of the first underwriters. The fairness of the transaction has not been questioned. No fraud has been insinuated; and if, as is supposed, it was intended as a double insurance, it seems strange it should not have been endorsed on the last policy at least, as the Messrs. Stacey have, it is believed, ordinary intelligence, and must have been aware of the necessity of it to validate these contracts. And it is still more difficult to conjecture why Mr. Smith [President John C. Smith] did not endorse it on the latter policy, if he was informed, as the defendants say, that there was another policy on the same goods in the Franklin office. He must have been aware that this was absolutely essential by express terms of the policy of the office, and that the omission to endorse it would endanger both policies. But all this is susceptible of easy explanation, if we suppose the first policy covered the goods generally in the store, and the second the specific goods imported in the John Sergeant. He might well say that he had given Mr. Smith notice of the insurance at the Franklin office of other property, without intending to say, or having the least idea that the latter was an insurance on the same goods. And Mr. Smith must have so understood it, as otherwise, occupying the situation he did in the office, the endorsement would have been made; for we are not to suppose him so extremely negligent of his duty as to omit doing what was absolutely necessary to the validity of the contract, much less can we believe the omission was wilful, which would be a gross fraud. But it is said that upon the removal of the goods from the ship into the store, the policy of the Franklin office immediately attached, so as to render them liable for their proportion of the loss of the goods which were imported in the John Sergeant. But this is not so clear, for I see nothing to prevent assurers, after a general insurance, to effect a specific insurance on particular goods, on which alone another subsequent underwriter would be liable without contribution. Under the views which have been taken of this cause, it is obviously unnecessary to perplex ourselves with a consideration of the numerous errors which have been assigned to the admission and rejection of testimony. This is a motion for a new trial, and if any error has been committed (of which I am not convinced), as it would not alter the result, no new trial will be ordered. This cause has been twice tried, and twice the verdict has been in favor of the plaintiffs; it is therefore time there should be an end to the controversy. The defendants should be compelled to do justice to the plaintiffs by paying them the amount of the insurance, for which they have received a full premium.

Rule discharged, and judgment for the plaintiffs on the verdict. (2 Watts & Serg., 506.)

### 3. The Situs of the Insured Subject: Supreme Court, March Term, 1847.

Rogers, J.: We see no error in instructing the jury not to give damages for materials not within the houses for which they were designed. It seems to be conceded that the policy extends to work got out for each house, but not put up, provided the work was deposited in the house for which it was designed, and remained there during the fire. This is a liberal construction of the policy, and certainly is extending it as far as the assured can reasonably desire. If the assured could recover for the loss of the work designed in this case for the fourth house if it were deposited in the third, there would be nothing to prevent a recovery if deposited in any other house, or any other place, however remote from the building consumed; there is no limit; but this it is obvious could not be intended, as it would put the insurers in the power of the insured. The price of insurance depends in some measure on the situation of the property insured, and they might not be willing to insure at all, if they were to be answerable both there and for the materials intended for the house insured which were at another place. (*Ellmaker vs. The Franklin Fire Insurance Company*, 5 Barr, 183.)

\* If under a policy for \$1,000 a loss of \$500 occurred, the insurance continued for \$500.



In 1850 the population of the city and the suburban and rural county, all of 82,603 acres area, numbered 408,762 by the United States census—such population dwelling in 61,278 buildings occupied wholly or partly as residences. This census gave the total capital employed in the very diversified manufactures as \$33,737,911, with an annual production of \$64,114,112. The number of manufacturing establishments, large and small, was approximately 4,000—the exact number unknown—engaged in several hundred varieties of production. The degrees of fire hazard were less known; these ranged through an extended scale from wire weaving to the oil and the planing mill. There were, conjecturally, about 5,000 mercantile buildings not occupied in part as dwellings, and 10,000 other buildings, public and private, including the dangerous stables and carpenter shops. All of the foregoing, with the shipping at the wharves resulting from 500 foreign and 30,000 coastwise annual arrivals, were subjected to a fire hazard ranging from 4@6 cents, to \$4@\$5 per \$100 of combustible value, according to the distinctive combustible characters and conditions. Particular classes of risks subsequently increased in annual fire cost, but the general fire cost of the city was never greater in ratio in the years of this history than in the fifth decade of this century.

Whether the local fire offices would be better fitted than the fire offices in other cities had been for the exigency of a maximum general local conflagration, was a question for which there was at least some occasion to indulge in as the year 1850 opened; and a solution of any question of the kind was at hand. At 4.30 P. M., July 9, fire broke out in the large grocery warehouse of John Brock & Son, Water street, north of Vine. An explosion occurred “when the fire *and the water* reached the saltpetre warehouse of the Messrs. Brock,” and this was followed by a second explosion of greater violence; the second one rending the walls and projecting into the air heavy pieces of burning timber, which fell upon the roofs of houses in the vicinity, setting fire to several buildings at the same time. The explosion was attended with fatal results; a number of persons were killed by the falling walls, and a greater number wounded. Accidents and injuries from falling walls had attended other large conflagrations, but the deaths and wounds here were proportioned to the extent of the fire. In the consternation and excitement eleven persons were drowned; some of these were blown into the river by the blast. The firemen serving the hose or manning the hand engines were for a while dazed and awe-stricken by the terror and bewilderment of the scene, but they soon collected themselves for the emergency. As the flames tore their way from square to square, the heightening temperature of the air began to affect the current—the wind shifted as the colder, denser, outer air pressed inwards upon the rarefied atmosphere of the fire area, and the flames were driven back upon themselves. So the progress of the fire was stayed at 3 A. M., July 10. Its devastation extended from the Delaware river on the east to Second street on the west, and from Callowhill street on the north to New street on the south—an area of 18 acres. There were 354 buildings destroyed with their contents, and others damaged. Nearly 300 of the buildings were occupied, wholly or partly, as residences. Loss was estimated—and not under-estimated—at \$1,500,000,



without any attempt to discriminate between the amount of real and amount of personal property. The insurances—something over half a million dollars—were in larger proportion upon buildings than on goods. Loss of life, excluding the drowned, was variously counted from 17 to 33 persons—the wounded from 43 to 120. Several persons were missing, in addition to those known to be crushed to death or drowned.

This fire—the largest flame-swept area of the city in the two hundred years of this narrative—evidenced that the destructibility of the general conflagration raging beyond the control of the fire department was less than in other cities, and gave proof that the perpetual deposit fund, duly strengthened by its proper accretions, if not subjected to the depreciation of panic cancellation of policies, was not a mistaken security in respect to the local jeopardy. No Philadelphia office was made bankrupt by the fire, and the companies paid all their losses. There may have been some small insurances in three or four non-State companies, but of such insurances nothing is known. The losses paid were: By American Fire, \$103,942; Franklin, \$94,124; Fire Association, \$93,000; Contributionship, \$77,938; Mutual Assurance Company, \$65,386; Insurance Company of North America, \$30,000; Fire Insurance Company of the County of Philadelphia, \$25,000; Pennsylvania Fire Insurance Company, \$15,000; Delaware Mutual, \$8,000; City and County Mutual, \$5,000; Reliance Mutual, \$5,000; Spring Garden, \$3,000; Insurance Company of the State of Pennsylvania, \$2,000. (Round numbers indicate rather approximations than precise amounts.) The marine-fire offices were called upon to contribute, as is shown, but about \$40,000 of indemnity. Loss of the Insurance Company of the State of Pennsylvania was upon perpetual policy No. 30, covering two dwelling houses, Nos. 236 and 238 North Front street, in \$1,000 each at 2 per cent. deposit. The Contributionship paid \$76,827.33 for total losses, and \$1,110.75 for partial losses.

Among the ruins and about the city the origin of the explosion which spread the fire was much discussed. Such an explosion, in popular faith—there being no steam boiler in the case—could be occasioned only by gunpowder, though the storage of any such explosive was denied by the proprietors of the warehouse in which the explosion occurred. For a long time the interrogatory "Will saltpetre explode?" was bandied about in bitter derision and in jest, as well as a subject of serious inquiry. The answer to such question is Yes—it will explode, but under special and very limited conditions. When the potassium—or rather potassous product of nitre—burning with carbonaceous material in a confined space is heated to a white heat, explosion is produced by contact with water, the violence of the explosion somewhat dependent upon the temperature of the water. There was a statement by one cognizant of the interior, of nitre being in the first and second stories, barrels of sulphur on the third floor, and granulated sugars of several grades on the third and fourth floors.

## CHAPTER VII.

*After the Great Fire—The Fire Insurers tending to associate—Building Progress of the City—Taxes paid by Fire Insurance Companies—Subrogation of Interest of Mortgagee Claimant—Decision upon a Mortgage Insurance—"For Account of whom it may concern"—Gillett & Cogshall represent Four Companies—A. S. Gillett's Advocate and Journal—Opening an Agency of the Liverpool and London Fire and Life Insurance Company—Legislation in relation to Storage of Saltpetre—Agency of the Hartford Fire Insurance Company—The Howard, of Lowell, Mass., withdraws—The City and County Mutual goes into Liquidation—Fires in 1851—A Great Mercantile Fire with Heavy Insured Loss—The Royal Insurance Company of Liverpool licensed and begins Business in Philadelphia in 1852—The Fire Policy of the Royal—"Bogus" Insurance Companies—The Centenary of Philadelphia and American Fire Insurance—The "Good Thought of a Hundred Years Ago"—The Insurance upon Houses and Goods, and Vessels in Port—The Total Premiums and Losses of the Insurance Company of North America—Centennial Meeting of the Philadelphia Contributionship—Horace Binney—The Centennial Address of Mr. Binney—Insuring without Knowledge of Fires—The Law of Fire Occurrence and the Changes in the Fire Happenings—Collated Observations—Fire Periodicities—Accumulation the Basis of Security—The Experience of the Contributionship—Fire Liabilities of Building inhabited or not inhabited at Night—Density of Population and Fire Cost—Experimental Rating—Organization of the First Philadelphia Board of Fire Underwriters—Classification of Fire Hazards and Rate Specifications—Risk Discriminations—Rate Differences for Annual Premiums on Special Hazards—Gross Premiums and Fire Cost—Long Term and Short Term Premiums. (1850-1852.)*

MANIFESTLY the fire insurance companies of other States and nations had not so hastened to enter the State of Pennsylvania under the provisions of the act of January 24, 1849, that they were in time to share in the loss by the conflagration of July 9 and 10, 1850. Stories of saltpetre explosions and making of saltpetre fire insurance rates followed the conflagration, and legislative regulation of the storage of such nitrate was invoked. With fire loss augmenting in a compound ratio from increased rate of fire outbreak and increased rate of average destruction, the fire insurers were forced to act more in conjunction, though the tendency of the trade in fire policies is to act with unregulated and unrestricted competition. There was, however, stimulus to competition in the opportunities of enlarged need of fire insurance. Activity in building was advancing with the fire liability, and in the year closing the fifth decade of the century, permits were issued for the erection of 3,815 buildings in the city and county, against 2,556 in 1849. With even the permissive act of 1849 but little recognized, agencies for non-local fire insurance companies began to be opened

in greater number, and with some of these there was a need to make a Philadelphia reputation, for they had none at home.

For the official year of the State auditor-general's department ended November, 1850, the taxes paid by Philadelphia fire insurance companies on capital stock rated according to dividend thereon, or no dividend, were:—American, \$555.25; Columbia, \$136.20; City and County Mutual, \$90.00; Fire Insurance Company of the County of Philadelphia, \$350.00; Franklin, \$4,400.00; Reliance Mutual, \$300.00.

As insurer of mortgage interest, the Franklin was among the earliest to adopt an express stipulation for the cession to itself of the mortgagee's interest, when such mortgagee, as claimant under a policy of the Franklin, was paid the amount pledged to him.\* In respect to the mortgage interest in this relation and otherwise, as an insurability, much ground was covered in a trial at Nisi Prius (Smith *vs.* The Columbia Insurance Company), and the subsequent reversal of the Nisi Prius judgment by the court in banc. The order for insurance by James Smith was:—

Make insurance against loss or damage by fire for four thousand dollars, on the under-mentioned property for the term of one year, on the *frame buildings and lot, machinery and tools* of the satinett factory, known as Watson's factory, situate, &c.; owned by Samuel Watson, and now insured by the undersigned *to cover a mortgage* on said property, held by me on the same *for said amount*, according to survey on file in this office, *lot included*.

The premium paid was  $2\frac{1}{2}$  per cent.

The survey contained an estimate of the value of the property described in the application:—

1. Factory building and fixtures, &c., with various items of machinery, in all, . . . . .	\$4,180
2. Dye house, \$700; <i>machinery stored</i> in this building intended to be sold, \$1,250, . . . . .	1,950
Dry house, . . . . .	100
	<hr/> \$6,230

Of the printed inquiries, 35 in number (given in evidence), all were fully answered. The 34th was as follows:—

State the amount of insurance wanted; on building and fixtures in each building; on machinery do.; on stock and merchandize do.

<i>Answer.</i> —On factory and fixtures, . . . . .	\$1,500
On machinery, including the machinery in the dye house, . . . . .	2,000
On dye house, . . . . .	500
	<hr/> \$4,000

There was no inquiry made respecting mortgages or other encumbrances, though policy was described as "*intended to secure a mortgage* held on the above named property *by the assured*."

Plaintiff further read in evidence to the jury, as part of his preliminary proof, a "list of prior mortgages" on the real estate and machinery which were at Leicester, Mass., and burned February 11, 1845:—

\* "The principle of equitable subrogation, or substitution of the underwriter in place of the assured, is recognized by every writer on the subject of insurance. . . . The term subrogation has been, especially of late, extensively adopted in the American courts. 2 Barr. (Penn.), 505. Buchanan *vs.* Pugh, 6 Gill. (Md.), 112." (Angell's Treatise on the Law of Fire and Life Insurance, 1855).



One to Lucretia Denny, 2d, dated January 30, 1816, for . . . . .	\$1,000 00
Interest on the same from April 6, 1840, . . . . .	471 00
One to Thomas Denny, dated May 18, 1826, upon which was a balance, July 1, 1844, of . . . . .	435 00
Interest on the same from July 1, 1844, . . . . .	93 24
One to James Smith, dated October 22, 1836, upon which was a balance, April 22, 1844, of . . . . .	3,000 00
Interest on the same from April 22, 1844, . . . . .	684 50
	<hr/>
	\$5,683 74

One to Thomas Lord & Co., and now owned by James Smith, dated  
July 1, 1835, upon which was a balance, January 1, 1847, of . . . 4,000 00  
Interest on the same,

A resolution of the board of directors of the defendant company was in the following terms:—

*Resolved*, That the company is willing to pay whatever it is liable for, conditioned that Mr. Smith will transfer his interest in the property saved from fire, and the other mortgages (of which the company had received no notice, but said by Mr. Smith to be on the same property), to this company.

The former secretary of the defendant company (examined by the plaintiff) stated, on cross-examination: "If I had known of the existence of the prior mortgages, I would not have taken the risk at all." The mortgage for \$3,000 covered only the machinery and tools in the factory. The mortgage to Lord & Co. was, like the former, originally given to secure a note, which, by payments, was reduced. It was on the realty only. Attached to this mortgage was a certificate, and the fact was proved by a witness that possession had been taken of the real estate under this mortgage by the plaintiff. But it also appeared that the factory was in the actual occupancy of a tenant, or by Watson, at and for some years prior to the fire. All of these mortgages were assigned to the plaintiff, and held by him at the time of effecting the insurance.

Defendant moved for a non-suit on the ground of misrepresentation. The court overruled the motion.

The judge instructed the jury that the facts of the plaintiff's interest consisting of several mortgages instead of one, and of his concealing the prior mortgages, were immaterial. The only object in showing the mortgages was to prove an insurable interest. It was the business of the insurers to inquire if they deemed the extent of his interest material, and then a false answer would have been fatal. Nor was it any answer that the plaintiff had not assigned his interest to the defendants, even if entitled to subrogation. "Nor do I see the force of the allegation of the defendant that the plaintiff is confined to the property covered by his title, or to the amount insured on each item, according to his distribution of the risk. All the difficulty on that head is removed by the proof that all the property, of whatsoever kind insured, was destroyed by the fire, or was of a value much greater than the sum insured. On the whole case, the court instructs you that the plaintiff is entitled to a verdict. Whether the plaintiff intended to cover all the mortgages, or the last mortgage, would seem to be immaterial, as there is no doubt that on that mortgage more than \$4,000 was due the plaintiff."

On appeal after argument:—

Gibson, J.: The interest of a mortgagee is a special, but an insurable one, and it may, at his option, be insured generally or specially: generally, when he says nothing about his mortgage, and insures as the entire owner; and specially, when the nature of his interest is specified in a memorandum. By the first he pays a premium proportioned to the risk of the absolute ownership; by the second, a premium proportioned to the risk of a less and derivative ownership. . . . . If the absolute owner be insured, he recovers the full value of the thing lost; . . . . . if the owner of a limited interest in it is insured, he recovers only to the extent of his interest. Each may insure separately and recover separately, *pro interesse suo*. . . . . Notwithstanding the form of the contract, . . . . . it is not the specific property that is insured, but its capacity to pay the mortgage debt. In effect, the security is insured. . . . . No one would pretend

that the mortgagee of a house, who had insured it, could recover for the burning of a few shingles on the roof of it, when the unimpaired value of the building might be much greater than the amount of the mortgage. . . . In reference to the clear value of the property so insured, therefore, the existence of encumbrances is always material to the risk. . . . And why is the question of unencumbered value material to the risk? Because the insurer having paid the mortgage debt, is entitled to have recourse to the mortgaged property; and any concealment of facts which would lessen its value would be an injury to him. That he is entitled to a cession of the security is proved by analogies from marine insurance, from fire insurance in respect of recourse to the hundred, and from the contract of suretyship. Salvage is a substantial element in calculating the chances of safety or loss, and to suppress any fact that might decrease the value of it would affect the rate of the premium. The plaintiff is willing to assign the mortgage protected by the policy, but refuses those which were prior to it, on the ground that they were outside of the contract. Good faith required him to bring them into, if not the contract, the view of those who were parties to it. If the unencumbered value of the property saved would satisfy the mortgage, he would be safe, and the defendant would lose nothing; and, therefore, to hold back information that might affect its value or amount, would hold out to the insurer a false appearance of security. Had the plaintiff said nothing about a mortgage, prior or subsequent, he would have insured as the entire owner, and paid an outside premium; by insuring a limited interest, without disclosing facts which might affect its apparent solidity, he induced the company to take a risk on terms which would have otherwise been declined. . . . It is said there was enough in the nature of the transaction to lead to an inquiry about prior encumbrances, inasmuch as the mortgage to be protected was not only of buildings, but of ground which could not be consumed. But the ground might be insufficient to secure the mortgage, and that might well suggest the necessity of further security. There was nothing in the transaction to suggest the existence of circumstances which did not meet the eye. Nor can there be room for a doubt that the security protected was the mortgage in question. The plaintiff himself admits the fact by offering to assign it, and by denying the right of the defendant to have the benefit of the prior mortgages of the realty. He is entitled to retain the mortgage of personality, because it involves other property, and has nothing to do with the transaction; but if the two prior mortgages of the realty were intended to be protected, the defendant would be entitled to a cession of them; and in either aspect their existence ought to have been disclosed. Judgment reversed, and *venire de novo* awarded. (5 Harris, 253.)

At the same period, the intention of the policy applicant, with insurable interest, was made the limitation in an application, of the phrase "for account of whom it may concern." In a warehouse a consignment of 185 bales of cotton had been burned. James Steele & Co. had effected insurance as above under a policy issued by the Franklin Fire Insurance Company, "on merchandize generally contained in their brick warehouse," etc. The cotton aforesaid burned with the warehouse of Steele & Co., had been shipped from Pittsburgh by Breed & Brewer, under consignment to S. & W. Welsh, of Philadelphia. Application had been made by Breed & Brewer, or one of them, to the agent of the Franklin, at Pittsburgh, to cover the cotton while in any warehouse in Philadelphia, which proposal was refused. Messrs. S. & W. Welsh effected insurance on such cotton in the office of the American Insurance Company, from time to time, on being notified of the arrival of the same, except upon some bales which arrived just before and after the fire, and of which no notice of arrival before the fire was given to them. On these insurances by the American Insurance Company, the value of 125 bales was paid to S. & W. Welsh, as agents of Breed & Brewer, leaving 60 bales of their cotton for which they had not been paid. Steele & Co. brought suit against the Franklin in consequence of notice from the consignees that they held the former liable for the loss of the cotton.

In Error. Lewis, J.: This cause was tried at Nisi Prius, and the plaintiffs recovered, subject to the opinion of the court upon the whole case. Judgment to be entered for the defendant *non obstante veredicto*, should the court be of opinion that the plaintiffs are not



entitled to recover. The action is brought to recover for a loss of 185 bales of cotton, 60 of which are claimed for the benefit of the owners as uninsured in any other office, and the remaining 125 bales are claimed for the use of the American Fire Insurance Company. The cotton was sent under the charge of a general forwarding and transportation line, from Pittsburgh to Philadelphia. The plaintiffs were members of the transportation company; but they also did business on their own account, as commission merchants, and kept a store in which they had goods, flour, and different kinds of produce, for sale on commission. It was a part of the contract with Breed & Brewer that the transportation company was not to be liable for the loss of the goods by fire, and that the owners should have the privilege of storage in Philadelphia "free of charge till sold." The plaintiffs being partners in the transportation company, acted as agents of that company, so far as to receive the goods in their warehouse in Philadelphia, and collect the freight for account of the company. . . . All the authorities go to show that the intention of the party effecting an insurance, at the time of doing so, ought to lead and govern the future use of it. . . . This rule has especial application to insurances made "for account of whom it may concern"; and where these terms are used in the policy, the party who claims the benefit of the insurance must show that he caused the insurance to be effected for his benefit, or that it was intended, at the time, for his security. These terms in the policy will not, in general, dispense with this evidence. . . . What evidence have we that this insurance was intended to indemnify Breed & Brewer? Daniel B. Peacock, a person in the employment of the plaintiffs, stated on the trial that "it was a *known fact generally*, that we had an insurance on goods for the benefit of our customers, for all the customers in business doing business with the plaintiffs, whether as a firm or as members of the line." . . . This does not prove that it was known to Breed & Brewer. . . . But the witness himself, when he descends to the facts of the case, tells us that the additional insurance was made "at the request of one of the partners, for the *benefit of the transportation line*." And the same witness produced the books of the plaintiffs in which the transportation company are charged with their proportion of the premium paid for the *first* insurance, and with the whole of that paid for the *last*. Can any evidence be more decisive that the insurance was effected, so far as the goods in question are concerned, for the benefit of the transportation line, to cover their charges for freight, or their interest in the goods, whatever that might be? But it may be said that an insurance for the benefit of the *carrier* is an insurance for the *owner*. Not so. Their interests are distinct. A contract of insurance is essentially but an engagement to indemnify. The interest of a carrier, without advances, is certainly less than the interest of the owner *where he has a special contract which relieves him from his liability for loss by fire and other accidents*. An insurance for the benefit of the carrier would be made upon a less premium, under such circumstances, than would be demanded for an insurance upon the interest of the owner. And where the carriers were not relieved from liability by a special contract, at the time of receiving the goods, and were known to be responsible men, an insurance for the benefit of the owner would be effected at a small premium, by reason of the right of the underwriters to a cession of the owner's remedy against the carriers. . . . If the liability of the transportation company as common carrier ceased upon the arrival of the goods at the warehouse of the plaintiffs in Philadelphia, and if, after that, the company merely held them on storage, without reward, for the accommodation of the owners, until it suited their convenience to call for them and pay the freight, it was neither the duty nor the interest of that company to insure for the benefit of the owners; and there is therefore no presumption that they or their agents did so. If, on the contrary, the transportation company continued in possession as common carrier until the goods were delivered to the consignees at Philadelphia, their contract with Breed & Brewer relieved them from liability for loss by fire; so that, even under that view of the liabilities of the carrier, the case is stripped of every presumption arising from the promptings of interest or duty, tending to show that they effected an insurance on the cotton for the benefit of the owners without instructions. . . . By applying the insurance to the benefit of the plaintiffs and the transportation company as "those whom it concerned," the words of the policy have their full effect—the duty of the plaintiffs as agents is performed—the interest of the transportation company in which they are deeply concerned is protected, and the defendant is made liable to those from whose funds it derived the premium. By a contrary construction we hold the defendant liable for a loss not intended to be covered by the policy, and involve the parties who effected the insurance and who paid the premium in serious difficulties, from which extrication might be difficult, if not impossible. . . . Upon the whole, we perceive no evidence upon which a jury should be permitted to find that this insurance was effected for the owners. Judgment reversed, and ordered that judgment be entered for the defendant *non obstante veredicto*. (5 Harris, 290.)

Early in 1851 the firm of Gillett & Coggshall (A. S. Gillett, H. R. Coggshall,) opened a general agency, and this firm then represented three companies of



Providence, R. I., and one Massachusetts office, viz., the Washington and the American Fire and the Merchants' Fire Insurance Company, of Providence, and the Howard Fire, of Lowell, Mass. A. S. Gillett had been an active insurance worker, previously conducting a general insurance agency at Chicopee, Mass. The list of companies in this Chicopee agency had embraced the Connecticut Mutual Life, the Howard Fire, of Lowell, several Massachusetts and New York mutual fire insurance companies, and two mutual health associations. A monthly folio sheet was issued by the Chicopee General Insurance Agency, "devoted to life, fire, and marine insurance, and general intelligence." It was entitled the *Advocate and Journal*; the first number was dated March 6, 1850, and the publication was continued for nearly a year. It was the first of the kind, preceding by some years J. B. Bennett's *Insurance Expositor*, printed at Cincinnati. The announced purpose of the Chicopee agency was:—

To publish the Law relative to underwriting for the benefit of the public, and more generally to disseminate information touching the interest of all parties concerned in policies of insurance, and to remove the prejudice, so far as possible, from the minds of many who unjustly entertain opinions of hatred towards these most useful, besides extensive, Institutions in the world, and to point out the cause why such dislike is harbored.

The "cause" of such "opinions of hatred" was growing and spreading.

A prestige was given to the agency method by the advent of the Liverpool and London Fire and Life Insurance Company, a wealthy proprietary association which had begun in Liverpool, May 21, 1836, under a deed of settlement, with subscription of £2,000,000 as association capital—20 per cent. paid in. At first, fire policies only were issued in the United States; Alfred Pell, New York city, was resident secretary. February 18, 1851, Richard S. Smith, president of the Union Mutual Insurance Company, was appointed agent for Philadelphia of the Liverpool and London. Mr. Smith, for the Union Mutual, was a marine underwriter—for the Liverpool and London was a fire underwriter, and in the latter capacity insured "merchandise and buildings," and so avoided, generally, the higher hazard of manufactories. This was the first foreign fire insurance agency established in Philadelphia after the exclusion of the Phoenix, of London, by the act of March 10, 1810.

Excitement about saltpetre explosion originated a section of a law, approved April 8, 1851, prohibiting the storing or depositing of saltpetre anywhere in the city, or in any ship, vessel, or other craft lying at anchor, or made fast to any wharf in front of the city, in quantity greater than three kegs or three hundred pounds at one time—penalty one hundred dollars, half to the informer, with the forfeiture to the informer of all the saltpetre above the permitted limit. There was, however, no limit in quantity as to storage not exceeding forty-eight hours in a forwarding house, when the saltpetre was intended for transportation over any of the "works of the commonwealth." Such prohibition as to an important commercial commodity was quickly followed by a qualifying enactment, which aimed rather to avert the association of nitrate of potash with sulphur and vegetable or animal carbon, than to restrict the storage of this particular nitrate:

SEC. 9. That so much of the Act . . . . . as relates to the storage of saltpetre shall not be construed so as to prohibit, or in any wise obstruct the landing of saltpetre from any vessel at the port of Philadelphia, and its temporary storage in any outhouse or building, for the purpose of facilitating the landing thereof, or the exportation or transshipment of the same; nor shall it be so construed as to prohibit the storage or deposit of saltpetre by any person in any building which may stand fifty feet distant from any other building owned or occupied by other person or persons, and it shall and may be lawful to deposit and keep saltpetre in any cellar in the city of Philadelphia or incorporated districts of the county: *Provided*, There shall not be any sugar, molasses, rosin, pitch, tar, turpentine, sulphur, lard, butter, linseed oil, whale, or olive oil, stored in the same building at the same time. (Act of April 14, 1851.)

The Hartford Fire Insurance Company of Hartford, Conn., an office of good repute, which had begun business in 1810, was now an addition to the companies represented in the city. A fire at a woolen and cotton mill, corner of Nixon and Hamilton streets, November 12, involved policy No. 3931 of the Howard, of Lowell, which insured \$3,000 on the building and fixed machinery, and \$3,000 on movable machinery. This with other losses in excess of the total premium receipts caused the withdrawal of the Howard.

The City and County Mutual, previously the Southwark Fire, reaching its end, closed without discredit a career marked with integrity, if not with success. It was of the latest to wind up under special legislative authorization distributing the assets, and it gave notice November 11, requesting all persons having claims against the company to present them forthwith.

With 150 fires in the city, large and trifling, in the first eleven months of 1851, December was especially lurid with flame. At 12.30 A.M., December 27, fire began at the north-east corner of Sixth and Chestnut streets, sweeping Hart's Building, the Shakspeare Building, a law-book store, damaging other properties, and causing four deaths by falling walls. Money loss was estimated at \$200,000. December 30, Barnum's Museum, at the south-east corner of Seventh and Chestnut, was totally destroyed.

At 1 A.M., Sunday, March 28, 1852, while there was a strong wind blowing from the east, a fire was discovered in one of two four-story brick buildings with iron shutters, such two buildings being Nos. 10 and 12 Strawberry street. Messrs. Lewis & Co. (No. 12, where the fire began,) were extensive importers of woolen and worsted fabrics, and had a stock on hand valued at about \$300,000, which was all destroyed. There was full insurance in twenty-one offices—\$30,000 in London. Shortly after the discovery of the fire the flames communicated to No. 10 on the north, occupied in the lower stories by Messrs. Gihon & Co., dealers in linens, and the upper stories by Wyeth, Rogers & Co., fine laces and fancy dry goods. Sweeping westward, the flames passed into Nos. 13, 11 and 9 Bank street, all three occupied by Stuart & Bro., importers of fine English dry goods. Value of the stock of Wyeth, Rogers & Co., \$100,000, most of which was destroyed; insurance nearly full. The stock of Gihon & Co., was valued at \$150,000, damaged principally by water. The stock of Stuart & Bro., in value about \$450,000, was a total loss. There was an insurance on this stock of \$150,000 in London and other foreign offices, and \$250,000 in American companies. The buildings burned were owned by Stuart & Bro., and were valued at \$80,000—fully insured. At this fire the greatest insured loss which had yet taken place in Philadelphia occurred.

With fires and fire alarms prevalent, the Royal Insurance Company (fire and life) was duly licensed in April, 1852. The Royal was a Liverpool association which had commenced business June 13, 1845, under a general act of 1844. The capital was £2,000,000 sterling, £200,000 paid up, with the shareholders personally responsible for the engagements of the company to the full extent of their private fortunes. The Philadelphia agents were Wood, Fuller & Wells, No. 4 South Front street. Upon its entrance, the Royal fully complied with all the terms of the State statute, and at the start the agency evinced a purpose to avoid all mere pretexts or technicalities in the adjustment of fire losses. It further essayed hazards which companies of equal responsibility rather avoided, as well as declined to make the conditions of loss settlement a correction of inadequate rates at the beginning of the insurance. Not that the Royal disclaimed precision in the account at loss settlement, for precise adjustment was called for on the score of public policy as well as of justice to the unburned risks, but encroachment upon the equitable commercial rights of the loss claimant was another matter. The difficulty on this point was always that the policyholder never understood that deficient premium means deficient payment when loss occurs.\*

The fire policy of the Royal was as follows:—

THE ROYAL INSURANCE COMPANY

OF LIVERPOOL.

Registered.

British and Foreign.

*Authorized by Act of Parliament.*

Capital Two Millions Sterling.

*Annual*

POLICY NO. ....  
Present Payment.

SUM INSURED \$.....  
Future Payment.

*Premium to*

*Annual Premium Payable on*

WHEREAS — ha paid the Sum of — to — as authorised Agent of The Royal Insurance Company and ha agreed to pay the Sum of — Yearly, on the — day of — during the continuance of this Policy for Insuring from Loss or Damage by Fire the Property hereinafter described, not exceeding the Sum specified on each Article, viz.:—

*MEMO.—It is hereby declared and agreed, that in case of the Assured holding any other Policy in this or any other Company on the Property Insured hereby, subject to the Conditions of Average, this Policy shall be subject to Average in like manner.*

NOW BE IT KNOWN, that from the — day of — 18 , until the — day of — 18 , and for so long after as the said Assured shall pay the Sum of — at the time above mentioned, and the Directors for the time being, by their authorised Agent aforesaid, shall accept the same, the Funds and Property of the said Company shall be subject and liable to pay or make good to the Assured, — Executors and Administrators, all such Loss or Damage by Fire as shall happen to the Property above mentioned, subject to the Conditions hereon endorsed.

\* Towards the close of the decade now entered upon in this narrative, it was said, "Philadelphia has more bogus insurance companies than any other city in the Union." When such fraud was at its height, the introducer of a "skinner" was questioned by one of his familiars as to his capital and about his rates. The benevolent apostle of cheap insurance solved the problem of rates and capital promptly in this answer: "What's a fellow want with capital, or what's the difference about rates, when a fellow knows how to adjust a loss?" This was but a street yarn, still it somewhat indicated the depth which policy making on its worst side had reached.



*In Witness Whereof*, We, Three of the Directors of the said Company, by our authorised Agent aforesaid, have hereunto set our Hands, and have caused the Common Seal of the said Company to be hereunto affixed. Dated at Philadelphia, this ——— day of ——— in the year of our Lord one thousand eight hundred and ——— and issued there.

Examined

.....  
 .....  
 .....

} Directors.

[L. S.]

Entered

By their Attorney,

.....  
*Agent to the said Company.*

#### CONDITIONS ON WHICH THIS POLICY IS GRANTED.

1. Every person desirous of effecting an insurance must state his name, place of abode, and occupation; he must describe the construction of the buildings to be insured, where situate, and in whose occupation, of what materials the same are respectively composed, and whether occupied as dwelling-houses or otherwise; also, the nature of the goods or other property on which such insurance may be proposed, and the construction of the buildings containing such property, and whether there be any apparatus in or by which heat is produced, other than grates in common fireplaces, in any of the said buildings or connected therewith.

2. Every particular circumstance of risk, arising from the situation, contiguity to other buildings, or construction of the premises or the nature of the trade carried on, or goods therein, is to be specially mentioned in the order for the policy, so that the risk may be fairly understood; if not so expressed, or if any misrepresentation be given, so that the insurance be effected upon a lower premium than would have been charged had such risk been so fairly stated, or if buildings or goods be described in the policy otherwise than they really are, or if, after an insurance shall have been effected, there shall be any erection or alteration or extension of the premises so as to increase the risk or any erection or alteration of any apparatus for producing heat as aforesaid, or if any hazardous operation or trade shall be carried on, or any hazardous goods be deposited, or any hazardous communication be made, and the same be not respectively made known to the office, in writing, or if the insurer shall neglect or refuse to pay any further premium which may be demanded, in consequence of increase of risk, from any of the aforementioned circumstances, the insured will not be entitled to any benefit under the policy, but the party so insuring may have a new policy upon such terms as may be agreed upon. And if by reason of such alteration or addition, or from any other cause whatever, the company, or its agents, shall desire to terminate the insurance effected by this policy, it shall be lawful for the company, or its agents, so to do, by notice to the insured, or his representative, and to require this policy to be given up for the purpose of being cancelled, provided that in any such case the company shall refund to the insured a rateable proportion for the unexpired time thereof of the premium received for the insurance.

3. No insurance proposed to this company is to be considered in force until the premium and duty be actually paid; and persons desirous of continuing annual insurances must make their respective payments of the premium and duty thereon, on or before the commencement of each succeeding year. No receipts are to be taken for any premiums of insurance but such as are printed and issued from the office, and witnessed by one of the clerks or agents of the office.

4. The interest of any deceased person in any policy of this company may be continued to the executor or administrator, or to the person otherwise entitled to the property insured, provided the person so entitled shall procure his or her interest therein to be endorsed on the policy, at the office of the company; and if goods insured be removed to any other situation than where the same were deposited at the time of effecting the insurance, such removal must be also allowed by indorsement on the policy, and a premium paid, if the risk be increased by the removal, in proportion to such increase.

5. Any person who shall have effected an insurance on any dwelling-houses or other buildings, and shall desire to change it to other houses or buildings, may have the benefit of their original policies, if the nature and circumstances of their risk be not altered, upon their giving due notice of such change, at the office of the company, and the same being allowed by indorsement to be made upon the policy.

6. Persons insuring property at this office must give notice of any other insurance made elsewhere on the same property, on their behalf, and cause a minute or memorandum of such other *insurance* to be endorsed on their policies; in which case this company

shall only be liable to the payment of a rateable proportion of any loss or damage which may be sustained; and unless such notice be given, the *insured* will not be entitled to any benefit under this policy.

7. Insurances on buildings and goods, in trust or on commission, must be so described and declared at the time of effecting such insurances, otherwise the policy will not extend to cover such property.

8. Losses by lightning will be made good by this company, as far as where either the buildings or the effects assured have been actually set on fire thereby, and burnt in consequence thereof. No allowance will be made for any hay, corn, agricultural produce, or other property which may be destroyed or damaged by its own natural heating, nor for any goods which may be destroyed or damaged, while undergoing any process in or by which the application of fire heat is necessary, neither will the company be responsible for loss or damage by explosion, except for such loss or damage as shall arise from explosion by gas.

9. Books of account, deeds, notes, bills, bonds and written securities, stamps, money, and gunpowder, cannot be assured upon any terms. Watches, trinkets, medals, coins, sculptures, curiosities, jewels, pictures, prints, drawings, manuscripts, missals, or other curious or rare books; musical, mathematical, and philosophical instruments; china, glass, earthenware, and looking glasses, are not included in any assurance, unless they are specified in the policy.

10. No loss or damage to be paid on fire happening during the existence of any invasion, foreign enemy, civil commotion or riot, insurrection, military or usurped power, or martial law within the country or locality in which the property insured is situated, unless proof be made to the satisfaction of the directors that such loss or damage was not occasioned by, or connected with, but occurred from a cause or causes independent of, the existence of such invasion, foreign enemy, civil commotion or riot, insurrection, military or usurped power, or martial law; and no loss or damage arising from any of the aforementioned causes, or from fire occasioned by earthquakes or hurricanes, will be paid.

11. All persons insured by this company sustaining any loss or damage by fire are immediately to give notice to the company, or its agents, and within fourteen days after such loss or damage has occurred, are to deliver in as particular an account of their loss or damage as the nature of the case will admit of, and make proof of the same by their declaration or affirmation, and produce such other evidence as the directors of this company, or its agents, may reasonably require; and until such declaration or affirmation, account, and evidence, are produced, the amount of such loss, or any part thereof, shall not be payable or recoverable; and if there appear fraud in the claim made for such loss, or false declaring or affirming in support thereof, the claimant shall forfeit all benefit under the policy.

12. Persons insured by this company, and who may suffer loss, will receive their indemnity without deduction or discount; but in every case of loss, the company will reserve to itself the right of reinstatement, in preference to the payment of claims, if it shall judge the former course to be most expedient.

13. If any difference shall arise with respect to the amount of any claim for loss or damage by fire, and no fraud suspected, such difference shall be submitted to arbitrators, indifferently chosen, whose award, or that of the umpire, shall be conclusive.

14. The directors of the company shall not be sued, or made personally responsible for this assurance until the funds of the company are first exhausted; and the agents shall in no case be responsible, either on account of any legal or other investigation which they may find it necessary to institute for the satisfaction of the company; nor can their personal property be attached on account of any alleged loss by the assured.

*You are requested to examine the conditions of your policy, and to observe that no policy is valid unless it bears the company's Seal, and has received the signatures of three directors by their attorney or attorneys—nor will any receipt for renewals be valid unless it also bears the company's Seal.*

April 12, 1852, the first century of the practice of fire insurance in America had been completed. The Philadelphia Contributionship for the Insurance of Houses from Loss by Fire “began a hundred years ago with nothing but a good thought.” It was an occasion to be commemorated, and due recognition was given to it. From two different London institutions protection from individual loss by fire had continued in North America, as two streams flow on,



marked by the differences in their sources and their channels. Now Houses had been insured in Philadelphia for one hundred years, and Goods for fifty-eight years. "Ships in Port" (the application of the marine policy against fire terminating) became a subject of the distinctive fire policy contemporaneously with Goods.

The Insurance Company of North America, insuring both goods and buildings, had in the fifty-eight years received \$979,358.66 of fire premiums, and paid \$534,888.90 for fire losses.

At the general meeting of the members of the Contributionship, held on the centennial anniversary—Benjamin Jones, Jr., chairman, William B. Fling, secretary—the annual election then occurring resulted in the choice of the following, as reported by the three judges in behalf of the board of directors, and the seven judges in behalf of the contributors:—

DIRECTORS.

Joshua Longstreth,  
Horace Binney,  
William H. Hart,  
William Smith

Lewis Waln,  
Dr. Charles Willing,  
Alexander W. Johnston,  
J. Pemberton Hutchinson,

Joseph Swift,  
Henry J. Williams,  
Richard P. Lardner,  
Dr. J. Rodman Paul.

TREASURER.

James S. Smith.

The institution had been founded with the expressed purpose to attain "not merely the mutual security of the members, but for the common security and advantage of their fellow citizens and neighbours, and the promoting of a great and public good, apart from all motives of private and separate gain." This was a worthy and ennobling object, and the time had come for account to be made up as to how far such purpose had been fulfilled, and how far it had failed. The hour, and the man for the hour, came together. Horace Binney, chairman of the board of directors, told the story of a hundred years. He was the foremost lawyer of the Philadelphia bar. He knew insurance as a contract through and through. He knew something of insurance in its collateral relations. He had inquired into the fundamental probabilities. In his professional pursuits, much of the business practice in its routines and forms had been revealed to him. He apprehended fire occurrence as diversified orders of recurrence within periodicities. He looked towards the possibilities of an ultimate adequate statistical collection and collocation. He had, in fine, the best insurance brain in the city, and the qualifications named characterized and colored his address. But the origin of the Contributionship was hidden in obscurity, and the record of after years was dim. Mr. Binney traced out from two cases in English Chancery reports the analogy between the Amicable Contributionship of London and its Philadelphia copy, but mistook the *four* hands clasping wrists on the building mark or badge of the Philadelphia office for the *two* hands clasped of the London Amicable—the Double Hand-in-Hand Fire Office of London being, as formerly stated, another office. From the same cases Mr. Binney deduced that "the first fire insurance company that was associated in London was a mutual insurance company instituted in 1696."



A practical underwriter, too, would have understood, from his habit or mode of thinking, that with insurances on buildings only, and not on goods as well as buildings, the Contributionship and the Mutual Assurance Company could *not* have borne "the brunt of that storm" of fire which raged July 9 and 10, 1850. Though building insurance was his direct theme, it is to be regretted that Mr. Binney did not give heed to the significance of the Strawberry-street-Bank-street burning which had just taken place. Both these were and are as spots on the sun. The immortal lustre of the address is in such thoughts as these:—

If rates [fire] are established by a company on the information derived from its own insurances for one or a dozen years, and nothing better, it strikes me as being much the same, in point of certainty, as if a man should insure lives without a mortality table, upon the strength of what he had observed among his own acquaintances. . . . Must we continue in the present state when few, and it may be none among us, can give a plain and defensible reason for naming a given rate of insurance as that which, if applied to a considerable mass of transactions, will most probably meet the loss on the kind of property insured for one year, or for ten years, or for an unlimited term, and also pay expenses and leave a fair profit to the insurers? Cannot the companies by united observations accurately and minutely made, and prosecuted for a considerable number of years, come to the knowledge of such facts as will furnish a defensible reason for naming a certain premium for insuring property of a given description against the risks of fire in a given place? It is the opinion of scientific men, I believe, that by observing the course of events extensively and accurately, such knowledge may be acquired, and with it a rule of insurance, at least approximately, sufficient for practical use. In the opinion of such men, it is possible to obtain what may be called the *law* of any species of disaster in the place of observation, and in regard to fire something like a mortality table, a table of injury as well as of mortality by that element, in the case of houses and merchandise, and its variations in the case of particular trades, and in the different conditions of the agents and apparatus for arresting and extinguishing fires. Even a year's accurate observation may do something, though perhaps little. Ten years' observation may give a sensible approximation to a rule. And a century may give even the larger variations, the plague and cholera losses, as I have called them. But the time it may take is nothing. The observations should be begun at once, and never cease, because new circumstances are constantly occurring to increase or diminish the risk of fires, and all of the phenomena should be constantly and regularly observed. It is the duty of the present day to begin. It will be the duty of that which succeeds to follow on. We should constantly keep company with all the changes in the place, its extension, the heights and materials of its buildings, the merchandise contained in them, and its liability to spontaneous combustion and explosion, the nature and management of dangerous trades, the character of the firemen and their apparatus, the methods of warming and lighting the dwellings and warehouses, even such matters as the matches and means of kindling a light, the loco-focos and lucifers which are one of our most operative dangers; in fine, daily and regular observation should be applied to everything that can be supposed to affect either the occurrence of fire or its intensity. All these things should be observed in their results from time to time continually. Is there any doubt that this can be done—I mean that the observations may be made? There is none whatever; and it cannot demand an expenditure which the united companies cannot both conveniently and profitably afford. Is there any doubt that a close approximation to a true rule for the future may be so obtained? Upon the authority of wiser persons, I believe there is none.

The method of persevering observation seems to be suggested by the proposition that the past contains our grounds of expectation for the future; and it seems to be equally true of almost all kinds of events—of moral as well as of physical phenomena, of those which seem to be the result of the freest volition.

The "defensible reason" as safeguard against improper practices, injurious competition, erroneous legislation, was and remains neglected. There was a jest in the address about the use of a fund collected from fines imposed on directors absent or late at the monthly or other meetings. The fund was appropriated to the planting of mile-stones on roads leading to the city. This was doubtless a primitive way of promoting the "public good," but had the

ancient directors by chance stumbled upon the "good thought" of starting with the fund a public insurance library and a record of insurance data, much of what afterwards came to pass—and came to pass to work injury and bring disgrace—would have been averted. As to the Contributionship, Mr. Binney said: "Our accumulations are a security for our ignorance or inexperience"; but what was the measure of ignorance as liability against which the accumulations as assets could be pronounced adequate offsets? The Contributionship adventured upon the fire risk at or about the minimum of fire hazard only, so far as such hazard was plainly manifest to the common observer; the narration states: "At the end of the present year of our company, 1852, we have, with a very inconsiderable fraction of excess, the same *proportion* of funds to the whole mass of insurance that we had at the end of the fiscal year 1842, ten years ago, notwithstanding the intermediate accumulation. If the great fire of 1850 had occurred in the year 1808, it would have swept away the whole amount of our funds, deposits and accumulations for half a century. Our insurances in the quarter where that fire occurred are supposed\* to have been of the same amount, or nearly so, in 1808 as in the year 1850." The fire of 1850 was testimony to the effect that the maximum Philadelphia conflagration was of exceptionally limited extent of destruction; a fire breaking out in 1808 would not have been in connection with equal combustive conditions—contents of buildings increasing as a fire factor;—still, there is not the evidence which would justify the saying that the accumulation of 1808 was as adequate for the possible fire as that of 1850 was for the occurring fire; yet if the great fire of a *century* can be compensated for at the cost of the accumulation in the fire *decade*, it would seem that the accumulation has been fully adequate to discharge completely its entire function. We cite again:—

The average of our losses for the last twenty years has been about \$10,000 per annum, varying, be it observed as a lesson on the subject of *annual* profits, from \$1,719 in one year to \$13,930 in the next, and again in the next to \$35,829; and in another part of the term, from \$1,569 in one year to \$85,153 in the year that next followed. . . . .

I promised a further remark upon the character of the rates of deposit upon some of our risks which gives color to the inference that they are at present too low, compared with the rates of first-class risks—I mean substantial dwelling houses, in good positions, which are generally insured for a deposit of 2 to 2½ per cent. The other class of risks to which I refer, are substantial warehouses or stores, as we call them, in good positions, unoccupied during the night, and the ordinary rate of which I may state at about 3 to 3½ per cent., with the liberty of storing merchandise. I state this without meaning to exclude exceptions for various causes. These two classes are adduced, in consequence of there being buildings in the one class inhabited at night, and in the other not inhabited at night, and to give the result of the last ten years' observations, with reference to this single point of discrimination—excluding, however, the great fire of 1850, which merged all differences between inhabited and not inhabited at night, by its violence and extent, and which falls into the fiscal year ending 25th of March, 1851. A table which has been prepared in the office will exhibit the proportions of loss to the sums insured upon these two classes respectively.

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\* The word "supposed" indicates the restrictions under which Mr. Binney labored in his effort to present the history of the *insurance* as well as the history of the *institution*. With respect to the company's building mark, he said the directors "thought it material to the safety of the company to put it upon the front of the building insured. . . . . A different state of things has induced the doubt in our times whether the appearance of the badge has not led, at least on some occasions, to an opposite result, and the use of it is now discontinued." The origin of the building mark in the London house insurance societies was in the purpose to inform their employes (firemen) what houses were insured by the society employing them.



*Table of Percentages of Loss on Buildings in which persons slept at night, and of Buildings in which no person slept at night, from 1843 to 1852 inclusive.*

YEAR.	Number inhabited at night.	Average of loss per cent. of sums insured.	Number not inhabited at night.	Average of loss per cent. of sums insured.
1843, . . . . .	5	$3\frac{8}{20}$	12	$3\frac{10}{20}$
1844, . . . . .	2	$2\frac{10}{20}$	6	$4\frac{6}{20}$
1845, . . . . .	5	4	8	$21\frac{14}{20}$
1846, . . . . .	8	$1\frac{8}{20}$	9	$19\frac{13}{20}$
1847, . . . . .	5	$5\frac{4}{20}$	7	$5\frac{17}{20}$
1848, . . . . .	14	$2\frac{18}{20}$	10	$6\frac{11}{20}$
1849, . . . . .	13	$2\frac{1}{20}$	8	$4\frac{2}{20}$
1850, . . . . .	12	$8\frac{10}{20}$	5	$4\frac{5}{20}$
1851, . . . . .	—	—	—	—
1852, . . . . .	27	$2\frac{9}{20}$	15	$19\frac{14}{20}$
Totals, . . . . .	91	$32\frac{8}{20}$	80	$89\frac{13}{20}$

On the ninety-one buildings inhabited at night, the average of all the averages for each of the nine years was  $3\frac{12}{20}$  per cent.; and on the eighty buildings not inhabited at night, was  $9\frac{19}{20}$ , or about threefold.

The inference from the table, without further elements, will not strike the mind as conclusive, but it awakens it to the consideration of the nearly constant relation which the inhabitation or non-inhabitation of a building at night has to the extent of partial loss by fire and it is perhaps explained by the necessary fact, that a fire must in general gain more headway or intensity before discovery in buildings not inhabited than in buildings that are so inhabited.

Mr. Binney stated the average rate of deposit in 1822 as 2.51 per cent.; 1832, 2.58 per cent.; 1842, 2.63 per cent., and the same in 1852. March 25, of different years, the funds and insurances of the Contributionship were as follows:—

	Funds.	Amount Insured.
1753, . . . . .	\$ 1,261 93	\$ 108,360
1763, . . . . .	982 25	67,773
1823, . . . . .	228,850 00	3,620,450
1852, . . . . .	694,545 00	7,974,705

“Safety lies between extremes,” is a motto apparently applicable to insurance. The occupied dwelling (single family) is safe alike from the danger of the boarding house and danger of the unoccupied house. Density of population is an element of fire cost, but the purpose of occupancy controls the influence of inhabitation. New York had a residence in 1850 of 13.6 persons per house; the city proper of Philadelphia 7.5 persons per house, and the whole city and county 6.7 persons per house. With four-fifths of the population of New York, Philadelphia had less than three-fifths of the number of annual fires, and such less number of fires was in connection with 65 per cent. more buildings. Without an extraordinary conflagration, there were over \$1,500,000 destroyed in New York in 1850, in 288 fires—less than one-third of the loss on buildings. About one-half of the value destroyed was insured. The building inhabited at night and the building uninhabited at night were, apart from inhabitation, different orders of combustibility, which inherently affect



the chance of early extinguishment of fire. Still Mr. Binney was as correct in his "constant relation" as he was in his appreciation of the need of "further elements" before making conclusions.

As rates were now following fire fluctuations rather than anticipating them, the fires of the times were causing rate-shifts, and such expedients were thus noted by Mr. Binney:—

What knowledge have we of the proper rates of premium to be charged for insurance against fire in this city?—I mean what accurate knowledge? The subject must be unlike all other subjects which concern mankind, or by some means or other such knowledge may be obtained. But are we at present in the right way to obtain it? The present method seems to be that of trying a set of rates for a certain term of time, and if they result in loss to the parties insuring, to raise them; and as there have been two or three periods or terms in which, after making what were supposed to be profits, and dividing them, losses have followed, and perhaps continued to follow, so rates have been raised from time to time, and we are now, it is said, on the eve of another augmentation. I cannot say that this is wrong. The projected change is very natural. But can a reason be given why the late rates have been too low, except the general fact that some companies have lost by them severely, some not so much, and some not at all, while some perhaps have gained? Is any such knowledge of the law of this disaster possessed, as to enable the insurers to say how much they must raise their rates, and upon what risks in particular, to prevent the same thing from happening to them, which has already happened more than once?

April 16, 1852, an association entitled The Philadelphia Board of Fire Underwriters was organized. Its primary object was to classify and rate temporary risks, but such was not the entire purpose. The companies leading in the perpetual deposit business took no part in the organization. Conspicuously at the head of the movement was President Samuel C. Morton, of the American Fire; and Mr. Morton was chosen president, and John Williams secretary. All of the marine-fire offices became members of the board, and of the agencies the Liverpool and London was in full coöperation. The functions of the body were designated by the four standing committees of three members each, which were provided for, viz.: 1. A Committee on Statistics; 2. A Committee on Classification of Risks and Premiums; 3. A Committee on Surveys, Appraisalment and Settlement of Losses; 4. A Committee on Fire Police and Protection of Property. The board of managers consisted of one representative from each fire insurance company; any company could withdraw from the association by giving one month's notice of such intention. Article 9 of the "Constitution and By-Laws" was as follows: "It shall be the duty of each member of the association to give information of any deviation from the rules and rates of premiums adopted by the board, coming to their knowledge, to the standing Committee on Classification of Risks and Premiums. The said committee to report the same to the Board, or take such action thereon as they may deem proper." This committee was composed of Beaton Smith, Pennsylvania Fire Insurance Company; Henry D. Sherrerd, Insurance Company of the State of Pennsylvania; C. Tingley, Reliance Mutual.

So steps were taken for the ascertaining of rates and the decreeing of rates; *i. e.*, the distinctions in rates were, in some degree, to have their bases in differences of fire jeopardy made manifest in the *general* experience of the companies, and rates were not to be altogether a matter of arbitrary pricing. The work

of elaborating and specifying hazards and premiums was proceeded with promptly, with the determining conditions equal to the production of something between a mere catalogue or commercial price list and a correct technical graduation. June 18, a compilation of different lists was completed, entitled *Classes of Hazards and Rates of Premium for Insurance against Loss or Damage by Fire in the City and County of Philadelphia*. The fulfilment of the scope of such a title could not have been rationally looked for, yet there were discrimination and judgment evinced that were not afterwards materially improved upon. The work was, however, to be considered as but approximative and initiative, and in any partial measure in which the purpose of this board could be effected, fire insurance would be improved. Even life insurance, with its claims to superior mathematical construction, was conducted upon a tabulation which lumped in one indiscriminate mass the distinctive vitalities of the male and the female sex, and of white and colored, and of native and foreign born. To say, without reference to minimum variations, by how many degrees of fire jeopardy a hotel differed from a hay loft, a cooper shop from a carpenter shop, baskets in warehouse from bark under shed, was an extent of knowledge not attained and not yet decided as attainable.

The classes adopted rested upon the following generalizations:—

BUILDINGS.	{ Construction, Material, Use, Occupancy, Location, Height, Depth.	GOODS.	{ As equal to building. As building hazard plus intrinsic hazard. As and as not affecting building risk.
WARES, MERCHANDISE, TRADES AND OCCUPATIONS,		{ as	Not Hazardous, Hazardous, Extra Hazardous, Specially Hazardous.

Classes of buildings and rates: Dwellings in the city, or built districts of the county of Philadelphia, viz., per \$100 per annum: Of brick, stone, or metal, 25 cents; wood, 100 cents.

Dwellings in the country, viz.: Of brick or stone, 40 cents; wood, 100 feet or more from other buildings, 75 cents; wood, in towns or villages, 100 cents.

Barns in the country, viz.: Of brick or stone, 100 cents; wood, 200 cents.

Churches, school houses, and public buildings: Of brick or stone (in city or county), 50 cents; wood, 100 cents.

Stores and Warehouses. First Class: Brick, stone, or iron; roofs of tile, slate, or metal; iron shutters; cornices and gutters, front and rear of brick, stone, or metal; and fire-walls extending above the roof; per \$100 per annum, 40 cents.

Second Class: Brick, stone, or iron; roofs of tile, slate, or metal; without iron shutters; cornices or gutters of wood; without fire-walls above the roof, or varying from the first class in any one particular; per \$100 per annum, 45 cents.

Third Class: Brick, stone, or iron; varying from the first class in more than one particular, 50 cents.

Fourth Class: Of wood; 100 cents.

*Note.*—Plate Glass in doors or windows, when the plates are of the dimensions of three square feet or more, to be separately and specifically insured, per annum, 125 cents.

Height: If more than four, and not more than five stories above the street, additional 5 cents per annum. For each additional story over five, additional 10 cents.

Depth: Buildings 125 feet or more in depth, fronting on but one street, and those 175 feet or more in depth, fronting on two streets, additional 5 cents.

Skylights: Buildings having a skylight in the roof, additional 5 cents.

*Note.*—A skylight in an extension used *only* as a counting room, is not to be charged.

Additional tenants: If a building be occupied by more than one tenant, all having the same class of risks, to be charged, viz.: For one additional tenant, 5 cents; for two or more additional tenants, not less than 10 cents.

*Note 1.*—Each occupant to pay the rate of the highest risk in the building.

*Note 2.*—Tenants having less risks, are not to be charged for additional occupancy, when the *increased* rate charged is over 10 cents.

*Note 3.*—A store occupied in part for private offices or dwellings, is not to be charged for such additional occupancy.

Communications: When a building communicates on either side, or in the rear, or is connected by an enclosed passage way, or by an extension of one or more stories, with a building (unless such buildings be occupied by one tenant), an additional charge shall be made for each of such communications or connections of 5 cents.

Vessels and steamboats on the stocks, 25 cts. per month.

Vessels and steamboats lying in port (and on cargo), 20 cents per month.

Vessels and steamboats undergoing repairs, 25 cents per month.

Vessels and steamboats running, \$2.00 per annum.

Carpenters or Builders' risks: For alterations or repairs in brick, stone, or wood buildings (if over fifteen days), for each and every month, from the commencement of the risk, viz.: On brick or stone buildings, and the contents thereof, 10 cents per month; wood buildings and the contents thereof, 15 cents per month. On unfinished brick or stone buildings, 100 cents, per \$100 per annum; wood, 150 cents.

Special localities: Stores or warehouses on the following streets charged additional annual premium, viz.: East side of Front street, south of Maiden street, 5 cents; Delaware and Washington avenues, Water, Penn, Swanson, and any other street east of Front street and south of Maiden street, 10 cents; on any of the following streets, 15 cents additional: Bank, Commerce, Decatur, Dock, Granite, Jones's alley, Laurel, Merchant, Minor, Pear, Strawberry, Union, Church alley (south side, No. 2 to 38, and north side No. 1 to 11, inclusive), North Third (east side, Nos. 27, 29, 31), and all other streets less than 40 feet between the buildings, and not less than 25 feet, not elsewhere enumerated. There was a charge of 25 cents additional for any street or alley less than 25 feet in width not elsewhere enumerated, and for Church alley, north side, No. 13 to 35 inclusive, 55 cents.

These differentiations for special localities were mainly charges for obstructed access of the fire apparatus in the extinguishment of fires, in connection with massing of values in increased exposure through contiguity.

Rates on ten named special buildings ranged from \$1.50 per annum, Jayne's Building, Chestnut street, to \$2.75, Artisans' Building, Ranstead place. Following the traditions, the risk of contents began at furniture in non-wooden dwelling houses in town at 30 cents, or 5 cents in advance of the building rate. The furniture rate in wooden buildings was the same as the building rate for wooden houses, or \$1.00. These were the rates in the absence of camphene or like inflammable illuminating liquid, for which there was an additional charge of 10 cents. This was a construing of the camphene hazard as about equal, *per se*, to the hazard of the least hazardous dwelling house insured perpetually, but the rationale of fire insurance rating has never been presented. On merchandise the least hazard was assigned to dry goods in packages, and for such goods 10 cents were added to the rate on building, while for furniture in boarding house, building brick or stone, there was an increase of 25 cents on the building rate. For furniture in different connections these annual rates were declared:—



	FULL PREMIUM.	
	Brick or Stone.	Wood.
Furniture in dwelling-houses [city] without camphene, . . .	30	100
" " " [country] " " . . .	40	100
" " boarding-houses, " " . . .	50	100
" " hotels, . . . . .	75 @ 125	150
" " buildings, occupied partly as stores, . . . . .	50	100
" and libraries, in public buildings, including academies and schools, . . . . .	60	100
" and libraries, in private offices, without cam- phene, . . . . .	30	100
" organs and fixtures in churches, . . . . .	80	130
" and regalia of Odd Fellows and other similar institutions, . . . . .	100	150
" and regalia in hall, Sixth and Haines streets, . .	150	

Hotel furniture and building were one rate.

For merchandise *not* on storage in non-wooden stores partly used for general storage, there was an additional rate of 5 cents charged—without charge for additional occupancy for storage. Merchandise, not hazardous, hazardous, and extra hazardous, on storage in brick or stone warehouses, whether occupied wholly or partly as general storage stores, was charged the rate of \$1.00. In specific rating of the public warehouses and other stores, with the merchandise therein, building and contents of like premium in each case, merchandise in forwarding depots and transportation warehouses were rated at \$1.00; bark inspection warehouses and sheds, \$1.50.

What has been stated is in respect to certain generalities and particularities largely not included in the designations under Classes of Hazards. These classes were as follows:—

CLASSES OF HAZARDS.		Premium additional to Building Rate.
A.—Not Hazardous Goods:		
A1. 1st Section (Dry goods in packages), . . . . .	10 cents.	
A2. 2d " (5 designations), . . . . .	15 "	
B.—Hazardous Goods, Wares, Merchandise, Trades and Occupations:		
B1. 1st Section (28 designations), . . . . .	20 "	
B2. 2d " (82 " ), . . . . .	25 "	
C.—Extra Hazardous Goods, Wares, Merchandise, Trades and Occupations:		
C1. 1st Section (15 designations), . . . . .	30 "	
C2. 2d " (19 " ), . . . . .	40 "	

A2 embraced hazards from Copper in Bars to Opened Dry Goods; B1 from Salt, or Watches in Packages, to Linseed Oil or Straw Goods (wholesale). In this section began the grading of the manufacturing risk, and with Curriers and Morocco Dressers. B2 embraced hazards from Barbers' Stocks to Bread and Cake Bakers or Rags in Bales, and "generally all other stocks of merchandise (in building where fire heat is not used for manufacturing) not elsewhere enumerated." C1 ranged from Tobacco and Cigars (retail) to Liquors, with privilege of rectifying; C2 from Variety Stores to Fireworks and Manila Grass. (Nitric Acid and Muriatic Acid one hazard.) Each title was marked as to whether only the goods named were to be charged the additional rate, or the building and other goods contained in the building with them; as the sections advanced, the particular risk named increased the peril of the surroundings. Full annual premiums on the foregoing were as follows, according to class of building:—

	First Class.	Second Class.	Third Class.	Fourth Class.
A1, . . . . .	50c.	55c.	60c.	\$1.00
A2, . . . . .	55c.	60c.	65c.	1.00
B1, . . . . .	60c.	65c.	70c.	1.00
B2, . . . . .	65c.	70c.	75c.	1.00
C1, . . . . .	70c.	75c.	80c.	1.00
C2, . . . . .	80c.	85c.	90c.	1.00

For merchandise in buildings, with the privilege of storing saltpetre in quantity exceeding one ton, the full premium was \$1.25. Specially Hazardous was the last general classification, and embraced two divisions of risks enhanced in jeopardy above the building peril to an extent marked by a premium increase from 50 cents upwards. In the second division or section, the distinction among stores, warehouses, and manufactories, with fronts or walls of brick, stone, or iron, was obliterated. Flax as merchandise, for example, was a 40c. risk in addition to building rate. Flax in a third class warehouse building would make, therefore, a 90c. risk; the rate of a non-wooden flax factory was \$3.00, wooden building \$3.50. A recognition of the fact that the difference of material in building, as jeopardy, was somewhat overcome by the predominant hazard involved in the use of the building. Different from the second section, the first rated in addition to building, and the rates named for the first section were as follows:—

## SPECIALLY HAZARDOUS—FIRST SECTION.

	Rate in addition to Building.		Rate in addition to Building.
Bleachers of baskets and hats, . . . . .	50 cts.	Ink makers, . . . . .	50 cts.
Book binderies, . . . . .	100 "	Junk and rag stores, . . . . .	50 "
Cabinetware, salesrooms only, . . . . .	50 "	Lithographers, . . . . .	50 "
Cap manufactories, . . . . .	50 "	Musical instruments and music stores, . . . . .	50 "
Carvers, . . . . .	50 "	Printers, book, newspaper and job, with power, . . . . .	125 "
Cedar coopers, . . . . .	50 "	Printers, book, newspaper and job, without power, . . . . .	100 "
Confectionery, manufacturers of, . . . . .	50 "	Saltpetre in quantity exceeding one ton, . . . . .	75 "
Copper-plate printers, . . . . .	50 "	Straw goods, manufacturers, . . . . .	50 "
Coppersmiths, . . . . .	50 "	Type and stereotype foundry, . . . . .	75 "
Daguerreotypists, . . . . .	50 "	Wire workers, . . . . .	50 "
Furniture stores, . . . . .	50 "		
Gunsmiths, . . . . .	50 "		
Hat manufactories, . . . . .	50 "		

Specially Hazardous, second section, was a list of ninety-five titles with but seven rate distinctions. As between water and steam-power, the rate difference was 50 cents, and 50 cents marked the difference between a wooden and a non-wooden building used as a factory, except at the highest point of the industrial fire jeopardy. The lowest and highest rated risks, with one or more instances of each other rate, were as follows—full annual premium:—

	Brick, etc.	Wood.
Bandbox makers, . . . . .	\$1.00	\$1.50
Basket makers, . . . . .	1.00	1.50
Blacksmiths, . . . . .	1.00	1.50
Block and pump makers, . . . . .	1.00	1.50
Brass founders, . . . . .	1.00	1.50
Brewers (without malt kilns on premises), . . . . .	1.00	1.50
Chocolate makers, . . . . .	1.00	1.50
Coach makers, . . . . .	1.00	1.50
Comb makers, . . . . .	1.00	1.50
Distillers of liquors and cordials, . . . . .	1.00	1.50
Envelope manufactories, . . . . .	1.00	1.50

	Brick, etc.	Wood.
Map makers, . . . . .	\$1.00	\$1.50
Stables, private and club, . . . . .	1.00	2.00
Stocking weavers (hand loom), . . . . .	1.00	1.50
Turners in ivory and metals, . . . . .	1.00	1.50
Brewers (with malt kilns on premises), . . . . .	1.25	1.75
Boat builders, . . . . .	1.50	2.00
Bridges, . . . . .		2.00
Hay and straw in bales and bundles, . . . . .	2.00	2.50
Lumber yards, . . . . .	\$2.00	
Mahogany yards, . . . . .	2.00	
Marble yards, . . . . .	1.50	
Rope walks, . . . . .		2.50
Coffee and spice mills, . . . . .	2.50	3.00
Floor-cloth or oil-cloth manufactories, . . . . .	2.50	3.00
Carpenter shops, . . . . .	3.00	3.50
Organ and also piano makers, . . . . .	3.00	3.50
Cotton waste, . . . . .	5.00	6.00
Saw mills, . . . . .	5.00	6.00
Planing and saw mills, . . . . .	5.00	6.00

The seven rate differences, whether under-rating, over-rating, or equitably rating, in the ninety-five instances, were according to their application to the subjects as they existed at the period and in the locality.

A table of minimum rates for subjects in non-wooden buildings gave, as addition to the building rate (merchandise in wooden buildings at the rate of the building), the following rates for the subjects named:—Anvils 10 cents, salted provisions 15 cents, carpets and carpetings 20 cents, carriages in sales-rooms 25 cents, baskets 30 cents, sulphur or phosphorus 40 cents, musical instruments 50 cents, stereotype foundries 75 cents. Practically and distinctively this was a table of only six different ratings for risks, apart from buildings, not specially hazardous.

With the full annual minimum premium at 25 cents, and the maximum at \$6.00, and deducting 50 per cent. in the first case and 30 per cent. in the latter for expenses, the tariff may be pronounced an arrangement to provide for a fire cost varying between  $12\frac{1}{2}$  cents and \$4.00 per annum in the different subjects rated, with the least possible variation in premium.

From annual rates the *deductions* for long term risks, per annum, were as follows: Two years, 4 per cent.; three years, 7 per cent.; four years, 9 per cent.; five years, 11 per cent.; six years, 13 per cent.; seven years, 15 per cent. For short term risks the monthly *charges* were the following percentages of the annual premium: One month, 20 per cent.; two months, 30 per cent.; three months, 40 per cent.; four months, 50 per cent.; five months, 60 per cent.; six months, 70 per cent.; seven months, 78 per cent.; eight months, 84 per cent.; nine months, 88 per cent.; ten months, 92 per cent.; eleven months, 96 per cent. A given annual risk at one dollar would be insured at 87 cents per annum in the six-year term, and at the rate of \$1.40 per annum in the six months' term. The rule was established, and equitably in accordance with the facts, that the shorter the period of insurance, other circumstances being equal, the greater the ratio of the underwriting cost; but time as an element of hazard is without diminishing ratio of fire cost.



## CHAPTER VIII.

*The Spring Garden adopts the Mixed Mutual Method—Insured Goods sold and Policy held as Security—A Question of Title—The Equitable Fire, of London—Testing the Act of January 24, 1849, as a Tax Discrimination—Agency, under Act of March 21, 1849—The Trenton Mutual Life and Fire—The Odd Fellows' Mutual Insurance Company—The Equitable—Further Regulations of the Philadelphia Board of Fire Underwriters—Rate of Premium and Misdescription of Risk—John Williams's Street Book—The Monarch Insurance Company of London—Firemen's Riots and Proposal of a Paid Fire Department—Frederick Fraley's Data—Survey and Description of Risk, Knowledge of Surveyor and Answers of Applicant—Some Ratings—An Average Clause considered—The Home Insurance Company of New York—Agencies of Companies of New York State—The Cash Mutual, of Pennsylvania, repudiates Defective Flue and Insecure Stove-pipe—The Philadelphia Life tries Fire Risks—The Board Rates as Advisory—More Ratings—The Adjustings of the Adjusters—The Reading Rule and the Finn Rule—A Year of Minimum Fire Loss—Assets of Leading Fire Insurance Companies—Consolidation of the City Proper and Districts of Philadelphia County—Court Fire Loss Adjustment—The Commonwealth Insurance Company—Dr. David Jayne and his Granite Building—Improvement in Fire Statistics—The Consolidated Fire Insurance Company—Holbrooke, Lewis & Co.—The Mechanics' Insurance Company—The Last Attendance at a Great Fire of the Independent Fire Extinguishing Companies—Burning of the National Theatre and Contiguous Property—Assets and Business of the Spring Garden Fire Insurance Company—The Consolidated City Fire Department and Its Organized Divisions—Early Experiments in Steam Fire Engines—The Athenæum Fire Insurance Company of London—Additional Occupancy re-rated—Duties of the Surveyor and Statistician of the Philadelphia Board of Fire Underwriters—The Membership of the Board in 1855—Chief Engineer Shoemaker's First Quarterly Report—The Jefferson Fire Insurance Company—Rating of Special Warehouses—The Reorganized Firemen and Reduced Fire Losses—Three Buildings as one Risk under one Policy—Agencies of Worthless Companies routed—The Protection, of Hartford, goes into Liquidation—Company and Agency as to Agency Office Rent—Fires, Losses and Insurances in 1856—The Odd Fellows' Mutual becomes the City Insurance Company—An Adjustment of Salvage Expenses incurred after Fire—Introduction of the Fire Alarm Electric Telegraph—The Function of Government as a Fire Preventer—A Building Inspection Law—Gunpowder and Guncotton Restrictions—Revised Rules and Regulations of the Philadelphia Board—Terms and Conditions of the Board's Fire Policy with Classification of Risks—Three-fourths Payment on Total Building Loss, and Decreasing Ratio of Indemnity for Partial Losses—The Withdrawals of Agencies of London Companies—The Philadelphia Business of the Royal—The Proprietary Character of the Liverpool and London—Fire Premium Taxation for the Benefit of Disabled Firemen—Insurance of Rent Loss by Fire—The Kensington Mutual Fire and Marine Insurance Company—Hexamer's Maps—The District Court sustains Award of Referee in the Case of the Encumbered and Burned Mount Vernon Hotel—Fires in 1857 by Fire Department Report—Adjustment of Loss, Special Policy and General Policies—Police Detection of Fire Origins, A. W. Blackburn, Chief—Result of Investigations into the Causes of Fires—After the Panic of 1857; Assets, Losses and Business—The Girard Fire and Marine. (1852-1857.)*

THE Spring Garden Insurance Company had temporarily adopted the mixed mutual principle, and under the pressure of its severe experience—losses encroaching upon capital—had withdrawn from risks outside of Philadelphia and vicinity. A few months back of the fire insurance events just recited, or at the close of the first century of Philadelphia fire insurance, a question of title to insured goods sold by the insured, but retained as collateral, had been adjudicated. James B. Martel had effected an insurance upon goods in the Franklin and Spring Garden Mutual, and afterwards agreed to sell them to one Moore, who paid part of the purchase money and gave his judgment note for the balance. By agreement, Martel retained possession of the goods, and held the policies of insurance as security for the payment of the residue of the purchase money. A loss occurred after this, and a creditor of Martel attached the insurance, garnisheeing\* the companies, and the companies declined payment upon the ground that Martel, by the sale, ceased to have an insurable interest in the property. In the Supreme Court a judgment of non-suit was reversed, and a *venire facias de novo* ordered.

Lewis, J.: . . . . . It is sufficient for the purposes of this attachment that the goods were never in fact delivered to the vendee, and that they were retained in the possession of the vendor, by consent of both parties, to secure the payment of the purchase money. Such a possession is good as between the parties; and, in favor of the creditors of the vendor, the goods might be treated as the absolute property of the latter. So, as against the insurance companies, Martel must be considered as the owner to the extent of the unpaid purchase money. Moore, the vendee, is not injured by a recovery in this action. On the contrary, he will be benefited by this proceeding, because it produces satisfaction of his debt to Martel. (5 Harris, 429.)

Again as to title there was a trial in the District Court, February, 1852. An association had been organized several years previous (1834), under the name of Atlantic Hotel Company, for the purpose of erecting a hotel on the beach near the town of Lewes, Sussex county, Delaware. John Sweeny, one of the shareholders, was employed by the company to build the hotel. The shareholders not being able to pay Sweeny and the other creditors, all the right and title of the Atlantic Hotel Company (unincorporated) was transferred to the several creditors in 1838. Sweeny was the principal creditor, and had possession of the hotel prior to the transfer, and afterwards had entire control of it; but the company had entered upon land belonging to the State of Delaware, and erected the building thereon without any authority. July 1, 1841, Sweeny obtained a policy in the Franklin Fire Insurance Company for \$1,800—premium \$18—on the hotel (two-story frame), but there was no statement in the policy, or in the further description filed, as to the title to the property. Sweeny, in building the hotel, had supplied not only the carpenter work, but the stone work and the plastering; and the carpenter work alone amounted, without interest, to more than the sum insured.

The defendant, among other pleas, pleaded that the plaintiff had represented himself as owner of the said building, in consequence of which the insurance was effected, and that the building insured was misdescribed. The

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\* "The use of the form 'garnishee' as a verb, is a prevalent corruption in this country."—BOUVIER: Garnishment.



verdict of the jury was rendered in favor of the plaintiff for \$2,880, the judge reserving the point whether, upon the whole evidence, the plaintiff has a right to recover.

Afterwards the court in banc ordered the verdict to be set aside and judgment of non-suit to be entered. This being assigned for error, and equitable insurable interest argued, the Supreme Court, Lowrie, J., held that "the company had no title to convey to him [Sweeny]. So far as the evidence of title goes, it shows that the company entered upon land belonging to the State of Delaware, and erected their house thereon without any shadow of title or even of license, general or special. They were intruders, and if the plaintiff has their whole title, it is a mere intruder's title. This is not such an interest as the law recognizes as sufficient foundation for the contract of insurance." (8 Harris, 337.)

In June, 1852, an agency of the Equitable Fire, of London, was opened in the city, in charge of J. G. Holbrooke.

With a view to test the constitutionality of the Pennsylvania act of January 24, 1849, as a tax discrimination against non-State companies, Harvey G. Tuckett began proceedings in the District Court against the agent of the Trenton Mutual Life and Fire Insurance Company,\* in August, 1852; such agent acting without complying with the provisions of the statute. This action, and others of like tenor, terminated as nullities. In the District Court there was an action against the American Mutual Insurance Company of Amsterdam, N. Y., to which company application had been forwarded by an agency firm acting as brokers, for a risk not extra hazardous, but the property on burning proved to be a different risk, *i. e.*, window-sash and blind maker. The writ was served on Alfred Edwards, a New York agent of the company and a director, and not acting as agent in Philadelphia, in accordance with Sec. 3 of act of March 21, 1849. Rule being taken to set aside the service of the writ, counsel for defendant arguing that a compliance with the act of January 24, 1849, was necessary to constitute an agent of a foreign insurance company in Pennsylvania, Judge Sharswood (September 18), in discharging the rule, held that "the sheriff, by returning that he has served on Edwards, an agent, has certainly assumed that he is such an agent as is contemplated by the act" of March 21, 1849, which was conclusive.

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\* At a meeting of policyholders of this project, held at Trenton, April 24, an investigating committee previously appointed, owing to the condition of the fire business, by the policyholders, reported that "it was stated by the president that the company was prosperous up to the spring of 1851; that the losses all occurred within the last six months, and they amounted to \$45,000. It further appears by the admission of the president, that for the purpose of enabling the company to do business in New York, they procured what is called a guarantee capital, for which they paid an interest of 6 per cent., and that the company have paid for this guarantee capital out of the premiums some \$15,000 or \$16,000. Your committee have not been able to discover any provision in the charter of the company which authorizes the directors to take the money derived from premiums to pay interest on guarantee capital. It is a serious question whether this amount of interest thus paid does not belong to the policyholders, and ought not first to be applied to the payment of losses before the policyholders can be compelled to pay their notes; and if the parties who have received this interest do not voluntarily repay it, whether the directors who have paid it without any legal authority are not personally liable to make it good. . . . The committee have been informed that serious losses have occurred in the State of New York, and it is claimed that these losses are rightfully chargeable against the policyholders in this State. We entertain doubts whether the parties insured in the State of New York have any legal claims against the premium notes. . . . The committee therefore recommend: *First*, that the policyholders should decline paying any assessment made on them at present, until after the funds of the company have been first applied to the payment of its liabilities. *Second*, that a committee be appointed with power to employ counsel," etc.



In the summer of 1852, organization was effected under the charter of The Odd Fellows' Mutual Insurance Company (life and fire), approved April 12, 1851; Howell Hopkins, president, Samuel Clarke, secretary. The Equitable, of Philadelphia, had begun the issue of fire policies exclusively.

The new rates of the Philadelphia Board of Fire Underwriters, as subjected to the tests of practice and competition, were contingent as to their establishment upon the continuance of the fire conditions which had enforced their proposal. Attention was given to such changes as experience called for, and to apply any regulation sometimes required specific definition. September 15, the walls "ranging higher than the adjoining buildings, with metal or slate roofs extending over them," were "rated as 'fire walls.'" At the same date it was judiciously "*Resolved*, that wooden shutters lined with iron shall be regarded as equivalent to iron shutters."

At the same date the General Storage regulation, \$1.00 for merchandise on storage, full premium—5 cents additional premium for merchandise in building not on storage, etc., was repealed. November 3, the following resolutions were adopted:—

*Resolved*, That goods on storage should not be charged as for additional occupancy.

*Resolved*, That no insurance or insurances shall be effected, made or taken at a less premium than that established for one month.

*Resolved*, That fractional parts of the year to be computed and determined from different dates are not to be consolidated or combined and charged for at less rate than if they should be computed separately.

The short term rates adopted by the board were such as became substantially of general practice; the long term rates, viz., 4 per cent. annual reduction for *two* years, 7 per cent. on *three* years, etc., were permissions "on merchandise generally, or personal property," and were an exceptional rating.

As to height of building, the regulation first ordered was, as has been given, for fifth story above the street, 5 cents additional charge. At the burning of Hart's building, December, 1851, a large quantity of books in the process of binding in Ducomb's bindery, in the fourth and *fifth* stories, were destroyed. These books, the property of Henry C. Baird, publisher, were insured for \$2,000 in the Philadelphia Insurance Company at the rate of one per cent. In the policy the books were described as "in the third and fourth stories." Alleging material misdescription of risk, the company declined payment. Suit being brought at Nisi Prius, Lewis, J., November, 1852, the defendant company pleaded the misdescription and asked for a non-suit. The plaintiff replied that the pleas filed by the defendant asserted that if the premises had been described in the policy as being the fourth and fifth stories, the rate of premium would have been greater, and plaintiff could not consequently recover; this was therefore a question of fact for the jury. Non-suit was refused, and the plaintiff called S. C. Morton, president of the American Fire, and also president of the Philadelphia board; Beaton Smith, secretary of the Pennsylvania Fire, was also called. Both these experts testified that there would have been no greater charge for insurance in the fourth and fifth stories than in the third and fourth, and that both their companies insured Mr. Baird

on the same premises and upon the same terms as agreed upon by the defendant. The judge charged the jury, in effect, that the plaintiff was entitled to recover according to the policy and the testimony in the case, and a verdict was rendered for plaintiff in the sum of \$2,065. The rate in the board of underwriters' rule as to fifth story was subsequently stricken out, but the rate of 10 cents additional above the fifth story remained.

While there had not yet appeared in the city any street diagrams with risks located, as in William Paris's New York insurance maps, appearing in 1848, Secretary John Williams, of the Philadelphia board, prepared at this period a Street book (never printed), for the use of the board, describing the insurance character of the different wholesale stores.

In November, under the agency charge of J. G. Holbrooke, the Monarch Insurance Company of London was added to the English companies transacting business in Philadelphia.

The riots among the firemen, with the fire outbreaks increasing in destructiveness, stimulated the sentiment in favor of a paid fire department among property owners of the city, and reform was required in behalf of public order and security. A meeting of citizens to promote such purpose was held at the Supreme Court room, January 25, 1853, and a committee was appointed to prepare a memorial to the legislature on the subject, consisting of William V. Pettit, J. R. Tyson, John Miller, James Page, and Thomas S. Newlin. There was yet, however, much to uphold the continuance of the volunteer organization in the traditions of the past, though old ex-firemen united in urging on the innovation; and as a voting power the body of active firemen were an effective factor in settling any legislative project upon which they should act in concert. Besides these influences, a proposition to substitute a direct cost for a municipal instrumentality where an indirect one prevails, was not a good topic for a popular appeal. Still, in all progress, preliminary work has to be done, and those who make the initiative are rarely those who make the consummation. At another meeting held February 25, Frederick Fraley, one of the speakers, who stated that he had formerly been an officer of an insurance company in the city,\* made an argument and an illustration from the increase of fire insurance rates, saying, in substance, as reported, that the rate on merchandise risks had at an early period been 25 cents per annum on the hundred dollars at the highest point—in some instances less, and even as low as 18 cents. "The property which once could be insured for 25 cents now costs 50 cents on the hundred dollars. It is an under-estimate to say that the amount of property insured in Philadelphia—city and county—is \$100,000,000. The cost of this insurance is \$1,000,000, while the cost of insurance on the same amount of property in 1839 or 1840 would have been \$500,000. Thus we have a yearly loss of \$500,000 because of the increased danger caused mainly by the disorganization of the fire department." We have given the rates arranged by the Philadelphia Board of Fire Underwriters. Merchandise risks had been enhancing in price during the previous decade. The new rates

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\* The American Fire Insurance Company.

of the Philadelphia board were an advance, with discriminations enhancing the premium from 25 to over 100 per cent., according to class of risk or special circumstances. It is probable that Mr. Fraley's average premium of one per cent. at the beginning of 1853 was not an exaggeration as to temporary risks. Particular kinds of risks were, however, advancing in rate more than the general body of hazards, and from fire conditions peculiar to themselves. In how far the existing organization of the fire department enhanced the normal inherent fire hazard was a problem, and the ability to solve it did not exist. The bill introduced into the legislature to provide for a paid fire department failed. It was as yet dimly recognized that the combustible conditions of the city proper—and the county in somewhat less degree—were outgrowing the fire extinguishing apparatus.

At Nisi Prius, Gibson, J., March 16, 1853, a verdict for \$6,375 was rendered for the plaintiff in a suit growing out of the fire, November 12, 1851, at the woolen and cotton mill, corner of Nixon and Hamilton streets. (James P. Bruner to the use of Paul Thurlow *vs.* the Howard Fire Insurance Company of Massachusetts).

B. F. Clark, acting for Gillett & Coggshall, then the agents of the Howard, solicited Bruner to insure, and surveyed the building (a stone structure), in its different occupancies, July 17, 1851, Bruner being with him at the time. The latter signed an application in blank, handed to him by Clark; Clark testified that he afterwards filled up the blank of the Howard from his knowledge of the building and his recollection of Bruner's answers.

Subsequently another application was prepared by A. S. Gillett, who testified that Bruner communicated fully the state of the premises, of which he, Gillett himself, had knowledge. The questions and answers were as follows:—

What kind of goods are made, and of what materials are they made? Ans. Woolen yarn, and some weaving of woolen and cotton goods.

What kind of lamps are used, and are they all covered? If any open lights are used, state particularly in what rooms. Ans. Closed lights.

How are the several stories occupied? Ans. Basement for machine shop and for purposes of manufacturing woolen yarn, as above.

Are the buildings and machinery both owned by the applicant for this insurance? If not, state by whom, and the nature of your interest. Ans. Yes.

Are the works operated on account of the proprietor, or are they rented, or are they let to run by the yard? Ans. Yes, by the proprietor.

Is the property mortgaged, and if so, state the amount? Ans. Two thousand dollars ground rent, and \$6,000 mortgage on the building.

How many hands are employed in the factory, and what proportion are men? Ans. Twenty-nine or less.

Among the conditions annexed to the policy was the following:—

Where a policy is made and issued upon a survey and description of certain property, such survey and description shall be taken and deemed to be part and portion of such policy and warranty on the part of the assured.

For the defendant, witnesses who had been engaged about the building testified that from the time the insurance was effected until the fire occurred the building was occupied by the plaintiff and others who rented from him, he



furnishing the steam-power. Two persons had a machine shop in the first story; another person engaged in the weaving of woolen and cotton goods occupied the third story; the plaintiff occupied the fourth story for the spinning of woolen yarn; D. & J. Donnelly occupied the second story for spinning woolen and cotton yarn. They used raw cotton; they had a picker-room and picker, and were picking cotton on the day of the fire. The fire originated in the picker-room, and a few minutes before the fire was discovered an open light was seen placed on a stool opposite and close to the doorway. Further, besides the mortgage for \$6,000 reported in the application of July 17, another for \$5,000, in favor of Paul Thurlow, was executed July 25, and one for \$1,100, in favor of C. Bockius, on October 25; of neither of which was notice given to the company. The number of hands employed about the factory during the whole time was about 70. An open light was generally used in the building to light up with. "Since the fire they use a covered light to light up with."

The judge, in his charge, referred to the jury the question whether there had been any misdescription. The matter in regard to the lamps related to the lamps habitually used, and did not refer to the hand lamp to light up. The answer to the interrogatory how the several stories were occupied, the judge also referred to the jury. He charged that the machinery, of which the ownership was inquired of, was the machinery intended to be insured; that the works referred to in the next question were Bruner's works—*i. e.*, Bruner's part of the factory; also, that the answer as to the mortgage was correct at the time; the subsequent mortgages could not affect the policy—they did not affect the risk; that he considered that the answer as to the number of hands employed meant the number of hands employed in Bruner's part of the factory. He further charged that if it should seem to the jury that these answers were taken down correctly by the agent, and that the assured kept back anything that was material to the risk which would increase the risk, then the plaintiff could not recover; but if he disclosed everything fully and fairly, and the fault or error, if any, was on the part of the defendant's agent, who undertook to reduce to writing the plaintiff's answers, then the verdict ought to be in favor of the plaintiff.

Assigned for error, the opinion of the court was delivered by Lowrie, J.:—

There can be no doubt that there are important errors and omissions in the written description, but the plaintiff has explained this by the testimony of the defendant's agents. . . . This raises the main question: Was this legitimate evidence? It is very apparent from all the evidence that this policy was not entered into by the defendant on the faith of the plaintiff's answers contained in the written application and description; for many of the questions which are very material are only partly answered, or not at all, and the whole treaty for the insurance and its terms were completed by the defendant's agents, who knew all about the property. There is, therefore, no merit in this defence on the ground of the defects of the description, and the law can have no object in sustaining it, except in order to preserve some valuable rule of its own from violation. . . . One of the conditions is, that a false description by the agents of the assured shall avoid the policy, but not so of description by the agents of the insurers. . . . The plaintiff informed the agent of all now insisted on as material omissions, and they were omitted by the agent because he deemed them immaterial. It is, therefore, a description by the agent of the insurers. . . . It follows that all the evidence tending to show the knowledge of the defendant's agents of the character of the property, and their acts in relation to the description, were properly admitted, and that the validity of the policy

does not depend upon the completeness of the written description. We think the learned judge was also right in what he said about the lamps used for lighting, and about the Thurlow mortgage. He neglected to charge as to the effect of any increase in the risk with the assent of the plaintiff, after the making of the policy, but we do not discover any evidence to sustain the point. Judgment affirmed. (11 Harris, 50.)

April 5, 1853, the coach lace, braid and fringe factory at the north-east corner of Cherry and Fifth streets, was rated by the Philadelphia board at 80 cents, full premium, for stock and machinery (power looms, silk spindles, Jacquard machines, etc.,) in the main building, and 125 cents for machinery and boilers in detached buildings. This was one of the signs of modification of the tariff with tendency of rates to wear down. As new subjects were presented, the question was to state a rate that could be maintained. Merchandise in the table of minimum rates (charged as addition to the non-wooden building rate), had begun to decline on the less hazardous risks from 20 to 30 per cent. In the previous September, special rates were registered for Market street umbrella establishments, and the original manufactory rate of \$2.00 (brick building) fell to \$1.50; but in one instance a factory in rear of store was maintained at \$2.50. May 24, a soap factory and tallow chandlery at Tenth and Callowhill streets (brick) was reduced, for special reasons, from the class rate of \$2.00 to \$1.55. The general convictions upon which the risk discriminations rested were shown, as to their character, by the rating of nitric acid when merchandise as *per se* a 40-cent risk, while stereotyping as a manufacturing fire process was *per se* a 75-cent risk.

At this period a communication was received by the Philadelphia board from the New York board recommending, without success, the introduction of an average clause in the fire policies. This rule was destined to be of the slowest possible growth in the United States, and the practice was continued of making, for example, a \$5,000 policy insure property worth \$10,000 *in full* to the extent of the policy sum. That is to say, if two properties, each of the value of \$10,000, were burned to the extent of \$5,000 each, \$10,000 policy on one would pay no more for the loss than \$5,000 policy on the other would. Such discrepancy, however, more immediately affected the individual premium payer than the insurer; for, taking the example given as illustration of insurance and loss conditions, *half* insurance could not pay *whole* loss at a less *aggregate* of premium than *whole insurance* could. So as premium payers on dwelling house and factory risks—especially the former—made up for the premium deficiency on mercantile risks, so payers of premium on full insurance made up the premium deficiency of partial insurance.

The Home Insurance Company of New York was organized April 13, 1853, with a cash capital of \$500,000. Despite of its title, it aimed at once at an underwriting (fire and inland navigation) broad as the nation—manifesting its faith in the then doubted agency system.\* In a short period from the commencement of the Home, William D. Sherrerd was appointed agent for Philadelphia. J. M. Wright now represented the Protection and the Ætna, of Hartford, at 76 Walnut street; Gillett & Coggs shall represented the National

\* At the close of 1860 the Home had 597 agents.



Protection, of Saratoga, N. Y.; Allen & Clark, the American, of Utica, N. Y.; A. Wadleigh, the New York City; Orrin Rogers introduced the Farmers', of Utica, the Mohawk Valley, the American Mutual, and the Globe, of New York. The Cash Mutual Fire Insurance Company of Pennsylvania also put in an appearance, with Foss & Farr as agents. It was chartered April 14, 1851. "The business of the company," by the charter, was to be "carried on at such place in the borough of Harrisburg as the directors shall designate, and such agencies out of Harrisburg as they may establish"; and by the programme "marine insurance of every description" could "be effected in this company on the most liberal terms," and *Smith vs. Cash Mutual Insurance Company* is in the law books. The Cash Mutual was rightly apprehensive of the "defective flue." Stipulated: "The company will not be answerable for a loss arising from the use of fires in buildings unprovided with good or substantial stone or brick chimneys." An application stated: "One chimney, one stove. Stoves well secured; pipe pass through a crock, well secured." There was no chimney, and the stove-pipe was not secured by a crock. The applicant and the agent participating in this misdescription, it was held that there was no insurance. (12 Harris, 320.)

The Philadelphia Life Insurance Company began to try the writing of fire risks.

To maintain a standard of fire rates became an impracticability. The board made concessions to the situation, but still essayed to define the respective premiums. With companies having any responsibility the hazards of the respective risks and the expenses of the business would ultimately exert their normal force in maintaining the value of the risks, notwithstanding the deflections induced by reckless and ill-informed competition. Companies with little responsibility, with or without the element of fraud in their character, could defy the essential regulations until swift destruction overtook them, hastened by the circumstance that it required excess premiums to compensate for bad writing. August 24, particular smoking and packing establishments were rated at 90 cents, full premium, and the saltpetre alarm having passed over, the requirement was abolished at the same date, fixing 125 cents as the rate for merchandise in buildings, with privilege of storing saltpetre in excess of one ton. November 2, Patterson's brick warehouse of seven stores (Front street below Pine), and merchandise therein, without cotton or specially hazardous goods, were rated at 70 cents; vinegar establishments and contents, brick or stone building, 150, frame, 200 cents. Dry goods, open, as distinguished from such goods in packages, began to be more decisively marked at 15 cents *per se* (addition to building rate), as against ten cents for goods in packages. The wooden appurtenances to brickyards—sheds, stables, counting-houses, with contents—as subjected more to direct fire exposure than public and private stables, and affected by a higher percentage of malicious incendiarism, were rated at 300 cents, while private frame stables were 200, and livery and hotel frame stables 250 cents.

The few could not decree a rate for the many, unless they could demonstrate its absolute necessity; and another subject was coming into controlling



importance. The rate should be as the loss, but the loss would be as the adjustment; and further, the adjustments could or would be according to the terms of the varied policies as judicially interpreted. We have said that the fire insurance adjuster, as compared with the marine average stater, was more of a bargainer than computer; with demoralization spreading fast and far, the time for sharp bargains had come, but adherence to the letter of the bond was improving the adjuster's skill, and with higher skill abuses would diminish. There was, however, the manifest absence of any master mind to establish fixed principle. The more extended and more involved operations in New York were rather developing puzzles than producing demonstrable rules, even when the question was how, in associated and often incompatible insurances, losses were to be apportioned between and among companies, and loss claimants' interests were affected therein only by the insolvency of one of the associated insurers.\*

The year 1853 was a period of minimum fire loss in Philadelphia, and the asset accounts of companies doing an exclusively fire business showed augmented accumulations for the year, thereby making a favorable contrast generally with the companies doing marine or marine and fire business. December 31, the Franklin stood at head of the fire insurance companies of the country with \$1,525,950 of assets—an accumulation of over \$1,125,000. The represented American agency companies at the lead, as such, were the *Ætna*, of Hartford—assets \$560,742, and the *Home*, of New York—assets \$549,429. The international *Royal* had \$1,888,980.

February 2, 1854, the governor of the commonwealth approved the bill consolidating the “mayor, aldermen and citizens of Philadelphia,” and the districts, boroughs and townships of the county into one municipality. This union of what had been divided prepared the way for a municipal fire extinguishing department and for more effective police regulations, diminished any influence towards the further organization of fire insurance companies in

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\* We give the effect of two New York rules used prior to 1850 for the adjustment of associated compound and specific policies, which rules were more or less applied wherever they could be.

Subject: Sugar \$5,000.		Coffee \$10,000.
Company A insures general merchandise, . . . . .	\$7,000	
“ B “ coffee, . . . . .		5,000
Loss: Sugar \$4,500.		Coffee \$1,500.

First Proposition: A contributing on the basis of values of subjects insured, or insurance, allots  $\frac{1}{10}$ ths of \$7,000, or \$4,666 $\frac{2}{3}$ , for coffee; so \$4,666 $\frac{2}{3}$  and \$5,000 unite to pay, *pro rata*, loss on coffee (\$1,500); therefore A pays on coffee \$713.82, and B \$786.12, and A pays on sugar and coffee \$5,213.82.

Second Proposition: A contributing on the basis of loss, allots  $\frac{1}{10}$ ths of \$7,000, or \$1,750, for coffee; so \$1,750 and \$5,000 unite to pay, *pro rata*, loss on coffee (\$1,500); therefore A pays on coffee \$388.89, and B \$1,111.11, and A pays on sugar and coffee \$4,888.89.

The former was known as the Reading rule, and was first proposed by Mr. Reading, president of the City Fire Insurance Company in 1845; the second was styled the Finn rule, and was proposed by Mr. Finn, secretary of the Long Island Fire Insurance Company in 1842. The former was designed or operated, as shown, in the interest of the specific policy, the latter in the interest of the general policy; and in the diversities of associated loss, occasions would arise in which the former rule would exhaust the general policy and leave a salvage on the specific policy, with the loss unsatisfied;—the latter rule would reverse the payments as between the two policies, with loss unsatisfied, (*Vide* Griswold's *Fire Underwriters' Text Book*, 661–664.) So both rules at times became inoperative. Afterwards Mr. Finn, arguing against the Reading rule, said, “with the amount of property at risk fire policies have no concern. It is the amount of loss only which interests them.” This was an illogical deduction, as the insurance precedes the loss, and the loss is as the insurance by its terms. At its basis the Reading rule was in accord with the average clause, but such insurance was very exceptionally a subject for adjustment.

sections of the county, and as running counter to the independent development of different municipalities, aided the normal tendency of localities closely built up to become in their centres rather markets than residences.

At the same session of the legislature a bill was introduced which was an attempt to check the fire adjustment practices, and make the claimant's attested statement of loss, duly sworn or affirmed to, in a great degree the actual measure of loss. The bill did not pass.\*

An act incorporating the Commonwealth Insurance Company of the State of Pennsylvania was approved February 13, 1854, and the charter was procured for immediate organization under it. The authorized capital was \$500,000, in 10,000 shares. It was an enterprise of wealthy parties, and prominent among

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\* Fire loss adjustment in the courts presented some of the diversities which marked practice outside of them. In the Common Pleas of Wayne county two policies together for \$633 insured \$633 of existing value, and the judgment was that a \$333 policy should pay \$333; when the cause was removed to the Supreme Court, it was held that the policy sums together of \$633 insured but \$500 of existing value, and the \$333 policy should pay  $500 \times \frac{333}{633} = \$263.03$ . The circumstances of these two different conclusions were as follows:—

Fire occurred in March, 1854, destroying a building at Honesdale, Pa. There was a five year policy upon the same in the Lycoming County Mutual Insurance Company of \$333—premium note given for \$66.60. In the application the estimated value of the property was \$500. Being mutual, it was agreed "that this policy is made and accepted, subject to and in reference to the terms and conditions of the act of incorporation and by-laws of the said company, which are to be used and resorted to, to explain or ascertain the rights and obligations of the parties hereto in all cases not herein otherwise provided for. It is also agreed that the aggregate amount insured in *this and other companies* on the above mentioned property shall not exceed two-thirds of the estimated cash value."

Ronk, the original owner and original insured, conveyed the property to Stockbower; policy, with the consent of the company, was transferred to the latter, whose premium note was substituted for Ronk's. Stockbower desiring to obtain additional insurance on the property, applied to the agent of the Lycoming, who declined taking any further risk on the property. August 9, 1853, he, however, secured an additional insurance on the property in the North American Insurance Company for \$300, of which he gave notice to the Lycoming through his attorney. The fire occurring, suit was brought to recover the amount of the insurance, in the Lycoming, of \$333, which was resisted by the defendant company on the ground that it was liable only in any event to pay a *pro rata* on \$333, in connection with the other insurance of \$300, under its *pro rata* clause and valuation clause.

Plaintiff alleged that Bidwell, agent of the Lycoming, had consented to the increased insurance, and had subsequently collected assessments from the plaintiff, both of which statements were not admitted by the company.

Barrett, P. J., in the Common Pleas, charged the jury that if defendant gave its consent, either express or implied, to remain insurer after the second policy issued, and with full knowledge of it, the jury may infer that the company deemed such additional policy warranted by the increased value of the property, in which case plaintiff would be entitled to recover the full amount of the policy. If, however, the Lycoming consented only to become co-insurer with the other company, then the plaintiff would only be entitled to recover its proportion of the loss—estimating the loss at \$333.

The jury found for plaintiff \$333, so rejecting \$175.34 of the alternative.

The opinion of the Supreme Court was delivered by Knox, J

"There was an error in permitting the jury to find, under the evidence, that the company was liable for the whole amount insured in the policy. The implied waiver arising from the assessments and from what was said by the agent, would apply only to that part of the contract which declared that only two-thirds of the estimated value should be insured, leaving in full force the stipulation that, in the event of other insurances, only a proportionate part of the amount insured should be demanded from the Lycoming company. Now, as there was no evidence given that the loss sustained was greater than the estimated value of the property, which was \$500, the plaintiff is only entitled to recover upon the policy in suit that proportion of the said sum of \$500 which the amount insured in the policy, viz., \$333, bore to the whole amount insured on the property, viz., \$633. The amount would be ascertained thus: If \$633 gave \$500, what would \$333 give? The answer is \$263.03. After the fact was found by the jury that the company assented to the additional insurance, the verdict should have been for \$263.03. And as we have discovered no other error in the case, we will affirm the judgment if the plaintiff will release the excess; otherwise it must be reversed." (2 Casey, 199.)

Denying the Lycoming ability to limit the insurances by the *two* policies (as between the two companies) to two-thirds of the estimated cash value, if the value of the property insured be taken at \$500, and company L. liable *pro rata*, the actual position would appear then to have been as follows: L. company insured \$333 on \$333; N. A. company insured \$300 on \$500; consequently N. A. company contributed \$200 (\$199.99) to the combined insurance on \$333. L. would thereby have to pay \$208 and N. A. \$125 on the \$333; so L. would have had a salvage of \$125 and N. A. a salvage of \$8 after the full \$500 were paid.



them was Dr. David Jayne, patent medicine manufacturer, also a large real estate owner, who had built the two most imposing structures on Chestnut street. Such Philadelphia offices as could furnish security worth having, asked 10 per cent. perpetual deposit for insuring his high granite store and manufactory, upon which no cost had been spared to make it of the best construction. Objecting to such rate of, say 60 cents per annum, the Commonwealth was in something Dr. Jayne's protest against it. In financial resources this project was regarded as the best founded insurance company started in the city for several years; still the Commonwealth began in June with 4,860 shares subscribed and \$5 per share paid in, furnishing a cash capital of only \$24,300. The fiction of stock or subscription notes was scouted, as any payment on the remaining \$218,700 subscribed would be forthcoming if required. (By May 31, 1857, the cash capital amounted to \$99,850.) Its small figures were, however, realities at a time when two or three hundred thousand dollars of insurance "assets" could appear on paper, and possibly be worth in the market five thousand dollars. The Commonwealth began with William Bucknell as president, David Jayne, M.D., vice-president, and Samuel S. Moon, secretary. Dr. Jayne was elected president the next January, and Thomas S. Stewart, vice-president. Secretary Moon had come out of a school of indemnification different from the underwriters'. He had been the previous seven years a clerk in the office of the board of canal commissioners of the State, and this board was about the most extensive business bureau in the commonwealth. Representing the State as common carrier, it determined the damages arising from the exercise of such functions with the adjuncts appertaining. For example, clothing and furniture were burned in the White Hall hotel, on the Philadelphia and Columbia railroad. The State, as fire-loss adjuster and payer, awarded and paid, first, to Nathan P. Brower, \$1,069.88; second, to Brower, same fire, \$244.42; and to four other parties, respectively, \$160.33, \$109.45, \$15.46, and \$7.58.

The Commonwealth was to be an independent office, opposed to all combinations among insurers. When the Philadelphia board came to rate specially "Jayne's Granite Building," No. 84 Chestnut street, the annual rate thereon was decided to be 125 cents. Granite as disintegrated by fire, and as weak in its resistance to flame, had been somewhat noted.

With the consolidation of the city the fire statistics began to be less incomplete. For the first quarter of 1854 there were reported for the consolidated city 142 fires, indicating a rate of over 400 per annum—the normal ignition. The losses ranged from \$5 to \$25,000, and with a total loss of \$108,420, the average fire loss was \$764—an average not showing any discreditable fire extinguishment. So far as could be ascertained, there was an insurance on the burned property of \$64,435.

The Consolidated Fire Insurance Company was chartered soon after the consolidation of the city, viz., April 28, 1854, and under such charter a company was subsequently organized by Holbrooke, Lewis & Co.—a firm which was now effecting over three millions of fire insurance a year. It was



preceded by the Mechanics' Insurance Company, chartered April 13—William Morgan, president, and Bernard Rafferty, secretary. The specialty of the Mechanics' was the insurance of building association properties.

The last great fire attended by the independent fire companies, as they had existed in organization for one hundred and eighteen years, broke out July 5. At 9.45 P. M.; during a performance, fire began behind the scenes of the National Theatre, south-east corner of Ninth and Chestnut streets. The origin is unknown; the flames appear to have started *near* the carpenter shop, in one corner of the building—careless handling of friction matches was assigned as the cause. A small audience was present, and actors and audience all escaped, excepting M. M. Sheppard, one of the performers, who was burned to death. A recent one-story wooden extension of the theatre reached the wall of the Chinese Museum building on the south, and as the flames spread unchecked through the theatre, this annex made a fire passage to the museum; and theatre and museum became one conflagration, spreading eastward over the block, or half block, from Chestnut to Sansom and from Ninth to Eighth streets, reaching to the rear of the buildings on the west side of Eighth street. The firemen succeeded in stopping the flames which burst out on the opposite sides of the streets. Loss was estimated at about \$475,000, with partial insurance: Theatre loss \$120,000, insured for \$27,000 in New York companies; the museum loss \$183,000, no insurance; Evans & Co., dry goods, loss \$30,000, insurance not stated; Boutillier Brothers, dry goods, loss \$10,000; James S. Earle, picture gallery, loss \$15,000, full insurance; Presbyterian offices, loss \$10,000. There were about twenty other losers of various amounts, exceeding, in all, \$100,000. The firemen were criticised as being unable to cope with a large conflagration. Piles of cubical stone on Chestnut street, placed there for repaving, proved to be much hindrance to the firemen at a critical juncture.

At the close of 1854 the assets of the Spring Garden footed up \$85,298.71; the interest receipts of the year were \$2,969.29, premiums \$35,140.14; losses paid in the year, \$8,894.16.

January 30, 1855, the councils of the consolidated city passed an ordinance reorganizing the fire department with seven fire districts, a chief engineer and seven assistants—plan to be submitted to the several companies; the department to consist, from sixty days after the date of the ordinance, only of such engine, hose, and hook and ladder companies as would accept the provision of the ordinance; a director for each company was to represent his company in the board of directors of the department. Some of the companies refused to accept until after the ordinance was modified. In March following, Benjamin A. Shoemaker, of the United States Engine Company, was elected chief engineer.

The first experiment in London with the steam fire land engine in 1829—plunger pump worked direct from piston rod of steam cylinder—did not then lead to the introduction permanently of such apparatus. More satisfactory results were at first attained by the floating steam engine. From 1845

advancing experimentation in construction began in the United States—notably in Cincinnati. In February, 1855, a large steam fire engine called the Miles Greenwood was brought to Philadelphia for exhibition, and was tested by the Philadelphia Hose Company. The trial indicated that the Miles Greenwood could not throw an equal body of water an equal distance to a good hand engine.

In February, 1855, the Athenæum Fire Insurance Company of London opened a United States branch office at 80 South Fourth street—Frederick Ratchford Starr, agent for the United States.

The Philadelphia board had in 1854 exercised an advisory influence, and in some degree its regulations were accepted outside of its membership as guides to practice. It had early in 1854 changed the basis of additional occupancy from more than *one* tenant to more than *two*. The additional rate of 10 cents became the charge for *four* or more occupants—the party applying being one. The secretary of the board was made surveyor and statistician, and May 2, 1855, his duties were enlarged and defined as follows:—

1. He shall keep the minutes of the board, and perform all other duties pertaining to the office of secretary.

2. He shall collect statistics of fires, viz.:—

Value of property injured by fire.

Amount destroyed.

Amount insured on the same.

Amount of insurance paid thereon.

Cause of the fire; character of the building, and how occupied.

The premiums received each year for the various classes of risks insured, and the amount of losses paid on the same, by the several companies, members of the association.

In order to accomplish these duties, he shall keep a book or books, properly divided, in which all the statistics mentioned shall be digested. He shall also prepare a form, and provide each company therewith, for a uniform carrying out of the purposes designated.

3. He shall classify the various buildings and risks in the city, from time to time, as circumstances may require, and report the same to each company, members of the association, and to others, as the board may direct.

Any survey made shall be recorded in a book kept for the purpose, which shall be open to the inspection of any member of the association.

4. He shall aid in the organization and management of a fire police, as the committee on that subject or the board may direct.

For these services he shall be allowed by the association a salary of \$1,000 per annum, and have his office rent paid.

5. He shall, when required by any company, member of the association, make a survey of any property to be insured by them, or employ, if he be otherwise engaged by the association (if requested so to do), a competent person to make the same; for which services he shall be paid by the company requiring such survey, as follows, viz.:—

*First.*—Full surveys of buildings valued at not exceeding \$4,000, a fee of \$2; from \$4,000 to \$7,000, a fee of \$3; from \$7,000 to \$15,000, a fee of \$4. The value of the building to be surveyed to be determined by the parties insuring.

*Second.*—For making surveys, examinations and estimates in the country, \$6 per day, exclusive of travelling expenses, crediting the association for the time so employed at the *pro rata* sum per annum paid him as secretary.

*Third.*—Special examinations and plans for any one company not required as a part of his duty, as provided for under sections 3 and 5, the expenses to be graduated by the time consumed, at the rate of \$6 per day, giving the association credit out of such payment for the time which he may be so employed at the *pro rata* sum per annum paid him as secretary.

6. He shall superintend, when required by any company belonging to the association, the assessment of damage by fire to buildings and other property, and adjust and arrange the claims of parties insured; for which he shall be paid by the company requiring such services, as follows, viz.:—

Estimates for damage done by fire, the expenses to be graduated by the time consumed, at the rate of \$6 per day, giving the association credit for the time he may be so employed at the *pro rata* sum per annum paid him as secretary.

The companies in the membership of the Philadelphia Board of Fire Underwriters at the time, with their personal representatives, were: Insurance Company of North America, Arthur G. Coffin; Insurance Company of the State of Pennsylvania, John Stewart; American Fire Insurance Company, Samuel C. Morton; Pennsylvania Fire Insurance Company, Jonathan Patterson; Fire Insurance Company of the County of Philadelphia, Benjamin F. Hoeckley; Delaware Mutual Safety Insurance Company, William Martin; Reliance Mutual Insurance Company, Clem. Tingley; Columbia Mutual Insurance Company, George F. McCallmont; Philadelphia Insurance Company, J. Coperthwait; Liverpool and London Fire and Life Insurance Company, Richard S. Smith; Equitable Fire Insurance Company of London, J. G. Holbrooke; Western Insurance Company, W. B. Norris; Keystone Insurance Company, P. M. Moriarty; Atlantic Mutual Insurance Company, John L. Linton.

Chief Engineer Shoemaker's first quarterly report—three months ended June 30—showed the fire department as composed of 27 engine companies, 18 hose companies, 5 hook and ladder companies—having 2 first-class engines, 18 second-class, and 7 suction's, 27 four-wheeled hose carriages, 7 two-wheeled, and 5 trucks—31,400 feet of hose and 703 feet of ladders. In the seven districts the firemen were called out 96 times—88 actual fires, 12 false alarms, 1 burning chimney. Estimated loss on buildings in the three months \$55,030, insurance thereon \$32,305; estimated loss on personal property \$57,962, insurance thereon \$31,495.

The Jefferson Fire Insurance Company, incorporated March 30, 1855, began business before the earlier chartered Consolidated; president of the Jefferson, George Erety; vice-president, John F. Belsterling; secretary, Philip E. Coleman. The organization of the Consolidated followed, with J. H. Blight, president, E. A. Lewis, secretary.

In the rating of special warehouses, the Philadelphia board prescribed, September 28, the regular merchandise rates, full premium, for the contents of the Patterson stores, Front street, below Pine: as copper, iron (in bundles or rods), lead, dry goods, bagging, etc., 50 cents; dye-woods, rattans, wool, etc., 55 cents; corks, ashes, tea, tin, sugar, coffee, etc., 60 cents; fruit, 65 cents; furniture, 70 cents; seeds, 75 cents. For store G in the series of seven buildings, a specific rate of 70 cents was fixed, it being set apart for the storing of the more hazardous merchandise, as alcohol, liquors, fireworks, manila-grass, cotton, flax, oil, etc. October 3, the rate on merchandise stored in the Granite street warehouses was reduced to 80 cents, with full privileges. Without the general privileges, the rates on the buildings were—first-class stores, 50 cents; second-class stores, 55 cents; vault underneath the street,



50 cents—merchandise therein chargeable at the specific tariff rates. Subsequently, Mr. Godley, the owner, binding himself to exclude from certain stores the more hazardous merchandise, rates were assigned for the different commodities 10 or 15 cents in advance of the Patterson store house rates, as copper, etc., 60 cents; dye-woods, 65 cents; corks, 70 cents; fruit, 75 cents; seeds, 85 cents.

In the second quarter of the fire department—ended September 30—as newly organized, the firemen were called into service on 27 less occasions than in the previous quarter. The total estimated property loss was but \$59,916 and the insured loss \$29,088. Four engine companies and three hose companies not accepting the ordinance at first, entered the reorganized department this quarter. The chief engineer said: "It would be useless for me to point out the benefits that have been derived from the passage of the fire ordinance; the decrease of fires, the great decrease of fire alarms, the saving of property from useless destruction by water, the absence of the former noise and confusion, the freedom from riot, and the almost entire harmony of the department, need only to be referred to to be at once acknowledged by our citizens." The reforms were acknowledged, and immediate demand for a paid fire department largely ceased; but causes for increase of ignition and combustion were not within the control of any fire extinguishment method, and a period of minimum fire loss did not denote that the period of maximum fire loss would not occur. The periods have their common law, but alternation is part of the law.

In April, 1850, a fire and an explosion had occurred in three adjoining stone dwellings partly occupied as stores. Upon the three one policy had been issued by the Fire Association, insuring \$666.66 $\frac{2}{3}$  on each. At date of policy first story of one was a grocery and dry goods store, of another a shoe store, of the third a millinery store. Subsequently the shoe store was changed to a dry goods, hardware and grocery store. Among articles kept in this store was a keg or part of a keg of gunpowder, which was placed "for safety," in the cellar of the kitchen, nearly under the kitchen stove, with the head of the keg taken out. A boy making paper bags in the back-store took them into the kitchen to dry at the stove. Fire began, spread through the kitchen, and the powder—two or three feet from the kitchen stove—exploded, destroying the kitchen of this house and the two adjoining.

One of the conditions (hazardous occupations, etc.) annexed to the policy was that:—

Persons exercising any of the trades or occupations herein mentioned, or making use of the premises insured for any other business that will increase the risk, or for storing or keeping any of the articles, or desirous of insuring the risks herein enumerated, must make a declaration to that effect that it may be inserted in the policy, and pay such extra premium on account thereof as the trustees may demand therefor; on failure thereof this policy shall be void and of no effect.

In the schedule, among such occupations was that of grocer, and gunpowder was one of the articles mentioned. The Fire Association accordingly held the policy to be void.

In an action of covenant, at Nisi Prius, Williamson, assignee of Mary Hyneman, plaintiff, the positions assumed by the plaintiff were:-

1. That the houses being separately insured in the sum of \$666.66⅔, the plaintiff was entitled to recover separate damages for the loss sustained on each.
2. That the houses being rented to separate tenants, if one of them should, without the knowledge of the landlord, keep powder, and a fire be thereby caused, which produced injury to all the houses, the owner is not thereby debarred from the recovery for the loss and damage to the buildings.
3. That if one of the tenants kept powder in the house occupied by him, and a fire took place in the house so occupied, which produced injury and loss to the other two houses, the plaintiff would not forfeit his right for the loss sustained by the fire on the two other houses.

Under the instructions of the court a verdict was rendered for the defendant.

In Error. Knox, J.: Two questions are presented upon the record.

1. Did change in occupancy of one of the buildings from a shoe store to a dry goods, grocery and hardware store, avoid the entire policy or any part of it?
2. Suppose the loss was occasioned by an explosion of powder kept by the tenant without the landlord's knowledge, can there be a recovery for any part of the loss?

There might be some question whether the mere change in the business carried on in one of the stores would of itself avoid the policy; but when we consider that not only did this change take place, but that the loss was caused by keeping a prohibited article, and that the insurance company neither gave its permission nor had notice of the fact that the building was used for keeping groceries, and that gunpowder was also kept, the case seems to be free from difficulty. Although three buildings were insured, the contract was an entirety, and as the cause of the injury to the three buildings was identical, it is of no consequence whatever in which one of the three it had its origin. Neither is it material that the landlord did not know that his tenant kept gunpowder. His contract with the insurance company was that it should not be kept without permission, and it was his business to see that his tenants did not violate the contract in this respect. Forbidden articles in a policy of insurance would be of no practical importance if the effect of keeping them depended upon the landlord's knowledge that they were kept by his tenant. . . . Upon the whole case we see no ground for disturbing the judgment entered at Nisi Prius. (2 Casey, 196.)

The clearing-out of worthless fire insurance companies in the State of New York relieved Philadelphia of several unlicensed agencies, if it did not benefit unpaid loss claimants. Almost as soon as it came, the American, of Utica, went into the hands of a receiver. The Supreme Court appointed a receiver for the Farmers', of Utica, in June, 1854, and a receiver took charge of the American Mutual, of Amsterdam, in the following December. The Mohawk Valley was disposed of in like manner early in 1855; so, also, the Globe, of Utica, and the National Protection, of Saratoga, in August, 1855; in September, the New York City. About the same time the Webster reinsured its risks in the Merchants and Mechanics' Mutual, of Philadelphia, and the National Exchange in the Farmers and Mechanics' Fire, Marine and Life. Neither the Webster nor the National Exchange was formally represented in Philadelphia. The going into liquidation of the Protection, of Hartford, which had participated in the advancing inland marine writing, was the withdrawal of an office of different character from the previously named. The Cash Mutual, of Harrisburg, had a short career.

With the agent as a factor of insurance somewhat in debate, the Supreme Court of the State contributed towards the settlement of company's responsibility as to one point of agency expenses. The Columbia Mutual had executed formal power of attorney constituting S. R. Throckmorton agent at



New Orleans—such agency was revocable at the option of the company. His compensation was to be 10 per cent. on all premiums received and paid over to the company; in case of loss, such commission to be refunded. In a suit begun in the District Court, Philadelphia, it was shown by the plaintiffs, Brander, *et al.*, that Throckmorton had rented an office from them, and therein transacted the business of his agency, Defendant offered no evidence, and the judge having reserved the law for the opinion of the court in banc, the jury rendered a verdict for plaintiffs. The court in banc set aside the verdict and ordered a non-suit, for the reason that no one has authority for supplying an agent with the necessities of his business on the credit of his employers without a plain, express authority, and neither expressly nor by implication was Throckmorton empowered to make any contract or lease for an office. The plaintiffs taking out a writ of error, the Supreme Court affirmed the judgment of the lower tribunal. In its conclusion the opinion of the court was: "It is evident that the expense was to depend upon the success. If the agent succeeded well, it is apparent that his commission would justify him in renting an office at his own expense. Besides this, it is impossible to imply a power to rent in an agency revocable at pleasure."

The lull in the fire apprehension with which 1855 closed continued in the first months of 1856. Chief Engineer Shoemaker reported but 115 fires for the six months ended March 31;—estimated loss \$186,775, insurance thereon \$88,979. An average loss of \$1,624 per fire was, however, rather suggestive of a critical situation. In April and May following the fire loss was \$942,910, and in accordance with the method of counting the insurance applying to burned property, the insurance liable for payment was \$667,125—an unusually large proportion for the time. April 10, fire broke out in the Artisans' Building, an omnibus risk (miscellaneous light manufactures), in Ranstead place, rear of Chestnut street, west of Fourth. This building, five stories high, partly covered an area of 112 by 93 feet. There was an open square in the centre, bounded by the north, east and west wings of the building, and partly by the south wing. The principal entrance to the property was by Ranstead place, a narrow passage. Loss was suffered by about thirty persons—more than one-half uninsured; the insurances applying amounted to \$93,000, and the property loss was double that amount. There were claims upon the Farmers and Mechanics' Insurance Company under four policies, and the payment of these was made a subject of newspaper advertisement. At midnight, April 30, with the wind blowing a severe gale from the north-east, fire began at the eastern end of the rag and paper warehouse of Jessup & Moore, on the south side of North street, below Sixth. Flaming rags and paper were carried over to stores on Commerce street, and these began to blaze; large dry goods establishments on north side of Market street also caught fire. Over forty buildings and their contents were destroyed or damaged. Loss was fully \$600,000, as estimated. One fireman was killed by a falling wall, and several injured by like cause. Rioting among firemen again occurred. For losses at these two conflagrations the Franklin paid \$92,445.06. Of the number of fires given as occurring in 1856, there were



46 in April and May, and 249 in the other ten months; the latter having an average loss of \$2,297, the average insurance applying being, according to the account, \$819. Against \$1,515,009 given as the year's fire loss, the insurance figures were \$885,015—about one-half of the insurance involved in the fire of April 30–May 1. As to origin, actual or presumed, 95 of the fires were attributed to Incendiarism and 101 were assigned to Accident. Of the remaining 99, all but 16 were classed as of Unknown origin.

Burning of the Mount Vernon hotel at Cape May, N. J., this year, after the close of the season of summer resort, involved policies aggregating \$81,500—largely mortgagee interests. Property was under levy when the fire occurred. Eight Philadelphia companies, of all sorts of condition, carried \$29,000 of the insurance; the rest was in three other Pennsylvania companies, and New York and Jersey City companies, and one Canada and one Cleveland (Ohio) company. One of the Philadelphia companies was the Odd Fellows' Mutual, which became, by a supplement to its charter approved March 24, 1856, the City Insurance Company, with marine and inland as well as fire and life privileges. In this somewhat memorable fire year\* the police and fire-alarm electric telegraph was introduced, ultimately to take the place of the fire bell.

Legislation, with respect to fire jeopardy, had its chief concern rather with the preservation of life and the restriction of flame than with the sources of ignition. To enter upon the control of the last, would be to apply the principle of sumptuary law to the habits, vocations and conduct of the citizen. It might put a stop to all fires from cigars and smoking pipes by preventing, through penalties and seizures enforced by elaborate espionage, the possession,

\* A fire at St. Louis, May 31, involved a question of payment of salvage expenses, incurred *after* the fire, in the loss settlement. Upon 307 bales of cotton, etc., there were \$5,000 of insurance in the Delaware Mutual, and \$5,000 in a St. Louis company. Cotton was valued at 10.6c. per pound, total weight 147,512 lbs. = \$15,636.27. There was a total loss of 76,586 lbs., @ 10.6c. = \$8,118.12, less value of refuse, and 28,192 lbs. were damaged. Such damaged cotton was the property of the insured, there being no abandonment to the fire underwriter. In assorting, cleaning, packing and storing the sound and damaged cotton by the firm, the expenses, per vouchers, were \$1,388.79. The St. Louis firm, Messrs. Adolphus Meier & Co., charged all the expenses to the insurers, whose total contingent interest in the undestroyed cotton was \$1,881.88, while that of the firm was \$5,636.27.

There was no dissent on the part of the insurers from the appraisals made, as to value, by the firm, whose account of property salvage was as follows:—

42,734 lbs., @ 10.6c., . . . . .	\$4,529 80
10,558 " " 8 . . . . .	844 64
17,634 " " 7 . . . . .	1,234 38
35,800 " " 1 (Refuse burnt stuff), . . . . .	358 00
	<hr/>
Less expenses, . . . . .	\$6,966 82
	<hr/>
Net salvage, . . . . .	\$5,578 03

According to this, the depreciation of the property by fire directly was—

\$15,636 27
6,966 82
<hr/>
\$8,669 45
<hr/>
\$15,636 27
5,578 03
<hr/>
\$10,058 24

By the firm's account the loss was:—

That is, \$58.24 in excess of the insurance.

Without admitting, under the contract of insurance, any legal right to charge the underwriters with even a *pro rata* share of the expenses, the Delaware Mutual accepted equitable contribution to protect mutual interests, but the company objected to the firm's account as charging the underwriters \$1,330.55 to

manufacture, sale and use of smoking tobacco, if its cultivation and importation could not be averted. On the political side, the problem of such an enactment would involve the question as to whether it is the function of government to preserve personal freedom, while maintaining, so far as it can, *meum et tuum*. On the economic side, the question respecting such an enactment would be whether it would cost more than it would save. In respect to a defective flue or building, or a hundred-weight of gunpowder or guncotton, it was recognized that the choice of the citizen must give way to public security. An act of May 7, 1855, had provided for a building inspection "for the better preservation of life and property" in the city; each inspector to enforce the provisions of this act as to the erecting, constructing or altering of houses or buildings, and "all acts and ordinances in force in said city, and in manner adopted for the security thereof against fires and the safety of the occupants"; further, "to see" that "the materials used are suitable for the purpose, and that the work is done in a substantial and workmanlike manner, and is of sufficient strength and solidity to answer the purpose for which it is designed." An act of March 20, 1856, limited gunpowder or guncotton (the latter liable to spontaneous explosion) to two pounds for private use; and with license to sell, "the person or persons so licensed may have on their premises a quantity of gunpowder or guncotton not exceeding in all twenty-five pounds at any one time."

February 26 the Board of Fire Underwriters had adopted as revised rates and regulations for city risks, the changes which had been induced by experience and the course of events from June 18, 1852. The fires of 1856 strengthened the purpose of the organization, but were without effect in promoting any panic rates. Classification, or rather classes, had been extended, rates on special hazards maintained, others marked down. The basis conditions of fire insurance under the board's policy were formulated as follows:—

#### TERMS AND CONDITIONS OF INSURANCE.

I. Persons desirous of making insurances, are to furnish the company with the following information:—

The construction, material, occupancy, and location of the buildings, as well as of those contiguous, and a description of the articles to be insured.

If the assured shall cause the buildings, goods, or other property, to be described in this policy otherwise than as they really are, so that they be charged at a lower premium

save \$1,330.55, while charging themselves \$58.24 to save \$5,636.27. Claiming that the underwriters' proportion was the ratio of \$1,330.55 to \$5,636.27, the Delaware Mutual proffered and paid in the ratio of 10,000 to 15,636.27, in accordance with a rule that had some legal and trade sanction. This made the underwriters' share of the expenses \$888.18. Thereby the company paid:—

For fire loss, . . . . .	\$4,334 73
Expenses, . . . . .	444 09

\$4,778 82

The Delaware Mutual paid also \$154.66 for loss on starch not reported in first claim; total amount paid being therefore but \$66.52 less than the whole policy sum—the stand taken by the company being solely on the principle involved. Messrs. Meier & Co. reported the settlement to Hunt's Merchants' Magazine as a grievance, alleging that the position of the Delaware Mutual in claiming that "the uninsured part of the cotton should contribute in proportion to the expenses of saving and restoring the cotton" . . . . . "was entirely wrong, and it settles our claim as a marine loss, and contrary to the established usage of the country in fire losses." In marine insurance, simply the expense falls on the salvage, and for the reason that the party benefited by the salvage should pay the expense of the saving. It became afterwards settled, or juridically declared, that salvage expenses incurred during a fire are part of the loss, within the amount of the policy, to be paid by the insurer; after a fire, the salvage expense falls upon the owner of the property saved.



than is herein proposed, this policy shall be of no force, or if the risk shall be increased by any means whatever, within the control of the assured, during the continuance of the insurance, and notice thereof be not given to the company, and such increased risk be allowed and indorsed thereon, this policy shall be of no force.

All renewals shall be considered as made under the original representation, unless varied by new representations, which, in all cases, shall be reported by the assured, and indorsed on this policy by the company.

Each building must be separately insured; and, in like manner, a separate sum insured on the property contained in each.

II. Property held in trust or on commission, must be insured as such. Goods on storage must be separately and specifically insured.

III. No loss or damage to be paid in case of fire happening by any invasion, foreign enemy, civil commotion, riot, or any military or usurped power whatever.

IV. Books of accounts, written securities, evidences of debt, titles to property, ready money, and profits, cannot be insured.

V. Jewels, jewelry, plate, clocks, watches, medals, or other curiosities, paintings, engravings, sculpture, statuary, and musical instruments, looking-glasses, and plate glass over three square feet, wall paper, and bordering over fifty cents per piece, decorative painting, stucco work, and fancy flooring, over the cost of plain painting, plastering and flooring, are not included in this policy, unless specified.

VI. Unless notice of all other insurance upon property hereby insured shall, with reasonable diligence, be given by the assured, and indorsed upon this policy, or otherwise acknowledged in writing by the company, this policy shall be void.

This company shall be liable only for such ratable proportion of the loss or damage happening to the subject insured as the amount insured by this company shall bear to the whole amount insured thereon, without reference to the dates of the different policies or the solvency of the underwriters; and the amount to be paid shall not, in the aggregate, exceed the amount insured by this policy.

VII. No order for insurance will be of any force, nor shall this policy be binding upon the company, until the premium be paid.

VIII. In case of loss or damage by fire, the assured is forthwith to give notice thereof to this company, and as soon as possible thereafter to deliver in writing, under oath or affirmation, if required by the company, as particular an account of the loss or damage as the nature of the case will admit of, together with a statement of the other insurances, and to produce to the company satisfactory proof thereof; and whenever required, the assured shall exhibit their books of accounts, invoices, bills, and other vouchers, and the company shall have the right to make copies and extracts therefrom.

Fraud or false swearing shall cause a forfeiture of all claims under this policy.

IX. In case any difference or dispute shall arise between the assured and this company, touching any loss or damage, such difference may be submitted to the judgment and determination of arbitrators indifferently chosen, whose award in writing shall be conclusive and binding on all parties.

X. No assignment of this policy shall be valid unless indorsed hereon and approved by the company within thirty days from the date of the transfer of the property. The company reserve the right to approve of the transfer or not.

XI. The insurance by this policy shall cease at and from the time that the property hereby insured shall be levied on, or taken into possession or custody, under any proceeding in law or equity; and in case of sale of the property insured, or cessation of the risk, otherwise than by fire, a return premium will be made, if applied for within thirty days thereafter, the company retaining the short period rate of premium for the expired time: Provided, however, that no premium shall be returned for a less period than one month.

XII. The right is reserved to cancel this policy at any time after fifteen days' notice to the assured or his representative, in which case the company will refund a ratable portion of the premium for the unexpired time.

XIII. No suit or action of any kind against this company, for the recovery of a claim under this policy, shall be sustainable in any court of law or chancery, unless commenced within the term of six years from the date of the fire; but such lapse of time shall be deemed conclusive evidence against the validity of said claim.

XIV. This company is not liable for damage by lightning or explosion of any kind, except from fire consequent thereon, nor where fire heat is used in any process to the articles damaged by such process, nor to goods in show windows, where the fire originates from the lights in said windows, nor where camphene, pine oil, burning fluid, or any similar inflammable liquid is used for light, or kept for sale, by the assured, without permission noted on the policy.



XV. The insurance by this policy is based upon the following classification of risks, viz.:—

NOT HAZARDOUS CLASS.

Comprises anchors, anvils, chain cables, copper and iron (pigs, bolts, bars, and rods), and copper in sheets; dry goods—staple, domestic and foreign—in packages; furniture and wearing apparel in dwellings, lead, salted provisions.

Which will be insured at the lowest premium.

HAZARDOUS CLASS.

*First Division.*—Comprises agricultural implements, boots and shoes, carpets and carpetings, chinaware in packages, cotton yarn, dry goods—staple, domestic and foreign—chiefly open goods (jobbers' stocks); dry goods—silk and fancy—chiefly in packages (importers' stocks); earthenware in packages, fireproof safe and refrigerator stocks, furniture and libraries in private offices, furniture and wearing apparel in boarding-houses, furniture and fixtures in churches, glassware in packages, glassware—window or plate—in boxes, hides, jewellers' stocks (including watches) in a fireproof safe, leather, matting, oil cloths, shot in bags, straw goods (wholesale), trunks, wool in bales or loose, woollen yarn.

Which will be charged at a higher premium than Not Hazardous.

*Second Division.*—Comprises artificial flowers, auction, goods at (except books); barilla, beeswax, brass castings, bristles, britannia-ware, brushes, button stores, candles, cane stores, cap stores, cap trimmings, carriages in salesrooms, chandeliers, chinaware unpacked, coach lace stores, coffee, combs, corks, curriers, cutlery, dry goods, retail—staple, silk and fancy; dry goods, wholesale—silk and fancy (chiefly open); dye-woods (in stick), earthenware unpacked, flour, fringe stocks, fur dresses, furniture and libraries in schools, academies and public buildings; furriers' stocks, furs and trimmings, gas fitters, gentlemen's furnishing stores, glassware unpacked, grain, groceries (wholesale), guano, gunny bags, hardware, harness, hat stores, hat finishers without fire heat, except for heating their irons; hat trimmings, honey, horns, hosiery, indigo in packages, iron—plate, sheet, wire, hoop and band; iron castings, jewellers' stocks not in safe, lamp stores, lard oil, liquors in casks or glass, packed or not; looking-glasses in packages or open, meal, military goods, millinery goods, molasses, morocco dressers, nails, notions, oil—sperm, lard, linseed and castor; oil cake and seeds, paints ground in oil, parasols, pearlash, peltries, pickles, plated ware, pocket-books, potash, provision and produce stores, rattan, ready-made clothing stores, rice, saddlery, salt, segars (wholesale), silverware, snuff, soap, soda, spices, steel, stoneware, straw goods (retail), sugars, tailors' stocks, tallow, teas (wholesale), tin plate and ware, tobacco (wholesale), trimming stocks, trunk-makers' leather, umbrellas, watches not in fireproof safe, watchmakers' stock and tools, whalebone, whips, window or plate glass unpacked, wine (wholesale or retail).

Which will be subject to a further increase of premium.

EXTRA HAZARDOUS CLASS.

*First Division.*—Comprises apothecaries (retail), auction (books at), bakers (bread and cake), barbers' stocks, baskets, beer houses, bell hangers, books, bottling establishments, brass workers, clocks, colormen's stocks, confectionery without fireworks, curled hair, daguerreotypists' stock, drinking houses, drugs without acids or phosphorus, eating houses, feed stores without hay or straw, fishing and fowling tackle, fringe stores with manufactories, fruiterers, gilders, ginseng, glove makers, glue, goldbeaters, grate makers, groceries (retail), guns, hops, ivory, laces and embroideries, locksmiths, mathematical instrument makers, milliners' stocks, moss, optical instrument makers, oyster cellars, painters and glaziers, paper hangings, paper in packages, pawnbrokers' stocks, plumbers, pocket-book manufacturers, porter houses, rags in packages, restaurants, rigging lofts, sail makers, seeds (grass and garden), segar makers, segars (retail), shirt manufacturers, silver platers and smiths, starch, stationery, stove stores with manufactories, surgical instrument makers, taverns, teas (retail), tobacco (retail), tobacco manufactories, trimming stores with manufactories, turtle-shell, upholstery, victualling shops, webbing and suspender manufactories, wigmakers.

Which will be subject to a higher premium than Hazardous.

*Second Division.*—Comprises cabinetware (salesroom only), cap manufacturers, cotton bats and wadding, cotton in bales, cotton brokers with samples, engravers' stock and utensils, fancy soaps, feathers, flax in bales or loose, furniture stores, gutta-percha goods, hemp in bales or loose, housekeeping articles, india-rubber goods, liquors with privilege of rectifying, looking-glasses, pictures and prints, manila grass in bales or loose, musical instruments and music stores, naval stores (tar, turpentine, pitch and rosin); oakum in bales, perfumery, rags loose, rope, saltpetre (under a ton), ship chandlery, sisal grass, sulphur, tin workers, toys, variety stores, woodenware.

Which will be subject to a further increase of premium.

## SPECIALLY HAZARDOUS CLASS.

*First Division.*—Comprises acids (nitric, sulphuric, muriatic, and others causing ignition); alcohol, bark in hogsheads, blacking makers, bleachers of baskets and hats, braiders, brush makers, carvers, confectionery with fireworks, confectionery manufactories, copperplate printers, coppersmiths, drugs (wholesale), dye-woods chopped or ground, essential oils, fire crackers and works, fur or wool hat finishers with fire heat, gunsmiths, hat manufactories, ink makers, junk and rag stores only, lithographers, madder, medicines (patent), phosphorus, saltpetre (over one ton), straw goods manufactories, sumac, varnish and painters' stock, wire workers, and workers in plaster-of-paris.

Which will be subject to a higher premium than Extra Hazardous.

*Second Division.*—Comprises axe factories, bakers (biscuit or cracker), bandbox makers, bark in mills or tanneries, bark inspection warehouses and sheds, barns and contents, basket makers, billiard rooms, bird-cage makers, blacksmiths, bleaching factories, blind makers, block and pump makers, boat builders, book binderies, bowling saloons, brass foundries, brickyards and contents, brewers with or without malt kilns, buildings unfinished with privilege of finishing, cabinet makers, candle makers, carpenters' risk for repairing or altering buildings (and their contents), carpenter shops, carpet factories (water or steam power), chair makers, chemical laboratories, chocolate makers, coach makers, coals, coffee-roasting factories, comb makers, coopers (cedar and oak), cordwood, cotton mills (water or steam power), cotton waste, curled hair factories, distillers of grain, distillers of liquids or cordials, drug mills, dyeing factories, dyers of yarns and silks, envelope manufactories, feed stores with hay or straw, flax mills, floor-cloth factories, flour mills (water or steam power), forwarding depots and transportation warehouses, frame makers (picture and looking-glass), fulling mills, furnaces, furniture in hotels, furniture and regalia of masonic and similar institutions, gas-fixture factories, gas-meter factories, glassworks, glue factories, grist mills (water or steam power), gutta-percha factories, gymnasiums, hair-cloth factories, hay in bundles or bales, ice houses and their stables, india-rubber factories, iron foundries, lamp factories, lard-oil factories, last makers, lead-pipe and sheet-lead manufactories, lead works, lime, livery stables, loom and shuttle makers, lumber yards, machine shops, mahogany yards, malt houses (excluding malt on kilns), map makers, marble yards and shops, mast yards, match factories, museums, musical instrument makers (except organs and pianos), nail works, oil-cloth factories, oil mills, opera houses, organs in churches, organ builders, packing houses, paintings for exhibitions, paper-hangings factories, paper mills, piano-forte factories, plane makers, planing, grooving, moulding and saw mills; plaster-of-paris works (steam power), potteries, printers—book, newspaper and job (with or without steam power); printing factories, provision inspection warehouses and sheds, rolling mills, rule makers, ropewalks, sash makers, saw, grooving, moulding and planing mills; ship carpenters and joiners, shooting galleries, shuttle and loom makers, smoke houses, snuff mills, soap makers, spice mills, stables (private, club, tavern and omnibus); starch factories, steam engine and boiler shops, stocking weavers (hand loom), straw in bundles or loose, sugar refineries, tallow chandlers, tanneries, theatres, trunk makers (wooden), turners in ivory, metal or wood; umbrella factories, vessels building or lying in port (and their cargoes), vinegar factories, weavers (hand loom), wheelwrights, whip factories, woolen mills, whalebone manufactories.

Which will be subject to a further increase of premium.

NOTE.—In case of loss by fire, it is understood that the assured is bound in law to use the same exertions for the protection of the property as if no insurance existed thereon.

The merchandise of the Not Hazardous class was a 10-cent risk in addition to the rate on the building. Household furniture shared in the rate of \$1.00 per annum in frame dwelling house, and 40 cents in country brick dwelling, and 5 cents were added to the 25-cent annual city brick dwelling-house rate.

Hazardous class, first division, were 15-cent merchandise risks in addition to building rate; furniture as therein, *full* rate, brick building 50 cents, frame \$1.00. Hazardous class, second division, 20 cents in addition to building rate.

Extra Hazardous class, first division, 25 cents in addition to building rate; second division, 30 cents.

Specially Hazardous class, first division, 40 cents in addition to building rate. In second division, Specially Hazardous, full premium, with brick building \$1.00 @ \$5.00, frame building, \$1.50 @ \$6.00. There were a few



changes from 1852; book binderies and printers were transferred from the first to the second division, but the list was enlarged with many additional subjects.

	1852.		1857.	
	Brick	Frame.	Brick.	Frame.
Brewers, without malt kilns, . . . . .	\$1.00	\$1.50	\$1.00	\$1.50
“ with “ “ . . . . .	1.25	1.75	1.00	1.50
Opera houses, . . . . .			4.00	5.00

A policy of partial indemnity had been brought into use in the city, but was in much discredit. It stipulated, in event of total loss of building, to pay three-fourths of the appraised cash value of such building above the foundation, but in event of partial loss, the insured was entitled to recover only a ratable proportion of such loss, *i. e.*, as *such loss* shall be in proportion to the value of the property at the time of the happening of the fire. The exposure of the character of the latter stipulation was sufficient to secure its condemnation. The more the property burned, the better was the indemnification.

The Athenæum, of London, now withdrew, its risks having been transferred to the Times, of the same city. Greater progress was making by the Royal, of Liverpool—George Wood, agent—in the assumption of local fire risks, than by any city company. The agency of the Equitable, of London, was coming to a close. Despite of all question concerning the non-corporate character of the Liverpool and London arising in New York, the Philadelphia agency of this association was taking good part in laying the foundation of a great and permanent business in the United States. Against the current of New York legislation the Liverpool and London at first took an ineffectual stand in behalf of the right of the private person to pursue insurance as a private business unaffected by the despotic authority of the State over the corporation. Under a fire and life and health insurance statute of New York (1853), there were two contingencies, according to the chances or mischances of interpretation or construction: 1. The person or co-partnership was not subject to the requirements and penalties prescribed by such acts; 2, the person or co-partnership was without authority to issue fire or life policies in the State of New York. The Pennsylvania supplement of May 12, 1857, to the foreign agency act placed the individual or the co-partnership and the corporation upon the same ground. In June the Monarch Insurance Company sold out to the Liverpool and London, and by the close of the year the Philadelphia risks of the Monarch were passed over to the Philadelphia agency of the Liverpool and London.

May 7, 1857, an act was approved requiring every agent of a non-State insurance organization effecting “insurances against losses or injuries by fire in the city and county of Philadelphia,” to have executed and delivered “to the said treasurer [*i. e.*, of the Philadelphia Association for the Relief of Disabled Firemen of the City of Philadelphia] a bond to the Philadelphia Association for the Relief of Disabled Firemen of the City of Philadelphia, in the penal sum of one thousand dollars, with such sureties as the said treasurer shall approve, with a condition that he will annually render to the said treasurer, on the first day of February in each year, a just and true account,



verified by his oath that the same is just and true, of all premiums which, during the year ending on the first day of September preceding such report, shall have been received by him, or by any other person for him, or agreed to be paid for any insurance against loss or injury by fire in the city and county of Philadelphia, which shall have been effected, or promised by him to be effected, from any individual or individuals, or association not incorporated by the laws of this State, as aforesaid, and he will annually, on the first day of February in each year, pay to the said treasurer two dollars upon every hundred, and at that rate upon the amount of any premiums so received," etc. (Pennsylvania Insurance Digest, 22.) There was little or no comment on the amazing character of this enactment. It was, however, a stretch of legislation, upon which the judicial authority would have to pass the final approval or condemnation.

Insurance of lessee as to loss of occupancy of leased premises by fire had become a limited usage. To this the Liverpool and London added indemnity for loss of annual rental, introducing a modification of English practice. The rent clause of the Liverpool and London was as follows:—

It is understood and agreed that it is the intent of the company to FULLY INDEMNIFY the insured from any loss of rent he may sustain by a fire happening to the building, not exceeding the amount insured by this policy. Loss to be computed FROM the day of occurrence of any fire. Loss not to be limited by the day of expiration named in the policy. In case of total or partial loss of the building, it shall be assumed to be the duty of the insured, as a basis for the settlement of the loss of rent, to rebuild or repair, as the case may be, the premises, with all convenient dispatch, and the sum insured will be taken as the yearly rent of the premises, and this company shall be liable only for such proportion of any loss as the sum hereby insured bears to the actual annual rent of the building.

The Franklin was the first Philadelphia office to assume rent risks.\*

Under act of February 27, 1854, incorporating the Kensington Mutual Fire and Marine Insurance Company, a stock company under the title Kensington began to do a fire business, with over forty city companies now writing fire risks; Thomas Snowden, president, John S. Jackson, vice-president, J. B. Allen, secretary.

From the diagram of the particular risk a step in advance was made by E. Hexamer (who had been previously in the employ of William Paris, the New York map publisher), in delineating locality. Mr. Hexamer designed at first a limited topographic outline, giving ground area, marking position, and indicating the external exposure. The brief designation of risks was upon a somewhat different classification from the New York plan. The first volume of Hexamer's insurance maps was published in 1857, and was but preliminary

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\* Eventually rent insurance by the Franklin became of the following character:—

All insurances of rents by this policy shall be understood and agreed to be upon the terms, conditions and limitations following: The company shall indemnify the insured from any loss of rent he may sustain by a fire happening within the period limited to the building specified, whereby it shall have become untenable, and that although part of the loss of rent be after the period of insurance shall have expired. The loss shall be computed from the date of the fire; shall cover the actual loss of rent by reason of the premises or part thereof having been rendered untenable by fire, not exceeding the rate of rent per annum expressed in the policy by the sum insured thereon, and for a time not to exceed the period of twelve months, nor the time reasonably necessary to rebuild or repair the building fit for occupancy. It is also understood and agreed that the insured shall proceed without delay, and with dispatch, to repair or rebuild the damaged or burnt building; and the said company shall be subrogated to the rights which the insured may have against any tenant liable for rent during the period of repairs or restoration, for their reimbursement.

to the after illustration of details of construction, occupancy and use of buildings founded upon special surveys, and in conjunction with perspective delineations of buildings.

Claims under the policies of the Franklin, American, and Howard, of Philadelphia, applying to the encumbered and burned Mount Vernon hotel at Cape May, N. J., were paid without any legal contention. Such claims were, however, resisted by the other companies for divers reasons. The cost of the building was double the full amount insured, but the value of the building was affected by the circumstance that it was not revenue producing. Under mutual agreement, questions at issue were referred by the District Court to George W. Biddle as sole referee, under Sec. 6 of the act of 1836. This reference involved four cases against four of the companies directly, with the issue thereof appertaining to others. After a hearing, in which the affairs of the hotel company were disclosed, the referee made his award in favor of Abraham Rex and Cyrus Rex, as originally insured parties or as policyholders by assignment.

1. The claim of Cyrus Rex as mortgagee was disputed, or put, upon the ground that there was no proof that he had loaned the amount covered by the mortgage executed to him, but that either the firm of Krouse & Co. or Abraham Rex, Jr., were the real creditors. Cyrus Rex could not, therefore, recover for himself, having no interest, nor as trustee for the real creditors, because the interest was not insured as a trust.

2. As \$9,000 of the \$35,000 mortgage to Cyrus Rex were assigned to John Taber, May 14, 1853, and this assignment was not communicated to the insurance companies, it was contended that the same was void; for the fourth condition of the policy executed by the Merchants' Insurance Company stated that "in case of any transfer, partial transfer, or change of title in property insured, such insurance shall be void and of no effect." The language of the Exchange Mutual Insurance Company's policy on this point was: "or if the property herein insured, or any part of it, shall be transferred by any contract or any change of partnership or ownership, then this policy shall be void, unless the consent," etc.

3. The omission to communicate the prior mortgages, it was argued, prevented recovery by Cyrus Rex; another objection, if valid, applied to the policy of the State Mutual Insurance Company held by Abraham Rex, mortgagee, and possibly to that of the Provincial Insurance Company, transferred to Abraham Rex, to cover his interest as a judgment creditor.

4. But should these objections not be sustained, it was thought that the wording of the policies of the Merchants', the Exchange, and the State Mutual Insurance Company, were fatal to the plaintiff's right of recovery. The clause in the Exchange was as follows, and was in almost the same words in each policy: "The insurance by this policy shall cease from the time the property hereby insured shall be levied on, or taken into possession or custody under an execution or other proceedings at law or in equity." At the time these several policies were effected or renewed, the Mount Vernon hotel was levied upon under an incumbrance, and was, as has been said, under levy when the fire



which destroyed it occurred. There was a decree of foreclosure entered as early as March, 1853; the property was under levy by Abraham Rex in June, 1853, attached by Ware in a suit *vs.* Bolton, Sloat & Bletz, in September, 1853, and had been sold under levy to Joseph Ware, and a sheriff deed executed to him, dated April 20, 1854.

5. It was contended by the State Mutual Insurance Company that Abraham Rex was not insured, as the mortgage of \$22,000 was given August 29, 1853, to Abraham Rex, and, October 17, of the same year, assigned to his father, called in the transfer Abraham Rex, Sr., of Schaefferstown. The policy was taken out November 21, 1855, in the name of A. Rex, mortgagee, of Philadelphia, in the county of Philadelphia; the proof of loss and claim was made by Abraham Rex, of Schaefferstown, who signed himself Abraham Rex, and the suit was brought simply in the name of Abraham Rex.

6. As the building produced no revenue, it was worth nothing at the time of the fire.

[Rent, in the opinion of the referee, was but one test of value, and as it was not shown that the building, *per se*, was depreciated, or that it had cost an inordinate price, the referee had no doubt on this score.]

Exceptions taken to the awards of the referee were dismissed by the District Court.

Sharswood, P. J.: The rules applicable on the question of setting aside such awards are settled—. . . . The referee must have committed "a plain mistake in matter of fact or matter of law." The award "is to be deemed and taken to be as available in law as the verdict of a jury." And the mistake committed by the referee, either in fact or law, is to be made apparent to the court by the exceptant. The onus is thrown upon him.

The first exception to be noticed applies to the policies of the Merchants' Insurance Company and Exchange Mutual Insurance Company, which were policies in favor of Cyrus Rex, mortgagee. The mortgage of plaintiff is to secure \$35,000, and it appears by the recital of the bond accompanying it, that it was given by the Mount Vernon Hotel Company in part to cover the payment of a balance of the purchase money of the land, and the residue to secure advances made, or to be made, by Cyrus Rex, the plaintiff. As to the balance of the purchase money, it is contended that the mortgagee has not been injured, he has the land still, the natural fund to which he ought to look and be confined. But there is no rule of law or equity which confines the security of a purchase-money mortgage to the land, independently of the buildings erected upon it, or which prevents him from insuring his interest from loss by fire to those buildings. Upon payment of the loss, the insurers will be entitled to subrogation, and may enforce the security against the land. As to the residue, it is contended that there was no evidence that the money was advanced by Cyrus Rex, and that if it was advanced by others, the mortgage was held in trust for others, and ought to have been specially insured as such, according to the conditions of insurance. It seems that the money was unquestionably advanced; the doubt suggested is as to the quarter whence it came. Cyrus Rex was a member of a firm of Krouse & Co., on whose books these advances were charged to the Mount Vernon Hotel Company. But from the evidence before him, the referee came to the conclusion that in fact the advance was in the first instance by the firm to Cyrus Rex, or that it was taken out of their funds by him for this purpose. As against the Mount Vernon Hotel Company, Cyrus Rex was their creditor; the advances were made on the security of the mortgage, and they could not, under such circumstances, be made liable to Krouse & Co. We cannot say that in this there was a plain mistake of fact by the referee.

Another exception applying to the same cases is, that the referee made a plain mistake of law in holding that the mortgage was a continuing security. It would seem, in point of fact, that advances to the whole amount secured by the mortgage were repaid to Cyrus Rex. But the plaintiff still went on to make further advances. The terms of the agreement, as expressed in the resolution of the directors of the company, were that the mortgage was to secure "such sums of money as he (the mortgagee) shall hereafter advance for the purpose of completing the building, and furnishing the same for the reception of visitors." On the words of this agreement there might possibly be a doubt, if it were a



case of mercantile guaranty, of the credit of a third person, but looking at the nature of the transaction, and the evidence before the referee of the frequent recognition by the company of the existence of this mortgage as a subsisting liability, we do not see that the referee has here made such a plain mistake of law as will justify us in setting aside his award.

Another exception is, that prior to effecting the policy a part of the mortgage had been assigned to John Taber. This does not fall, as is conceded, within the letter of the conditions, but it is supposed to be such a material fact as ought to have been communicated. But how material to the risk in an insurance of a mortgage security, we are at a loss to perceive. The condition does not make it so, if it is not in fact. We cannot say that it was a plain mistake of fact in the referee to consider it immaterial to the risk. Nor can it be considered that as to John Taber's interest, inasmuch as Cyrus Rex must be considered as a trustee for him, that thereby the policy is avoided. The condition does not so read; it is, "Property held in trust or on commission must be insured as such; otherwise the policy will not cover such property." If a merchant insures all the goods in his store, and he holds some merchandise in trust or on commission, it surely cannot be contended that his policy is therefore void. The merchandise so held is not covered. Here no claim is made or allowed for the interest of Taber.

Another exception, which applies also to the State Mutual Insurance Company, is, that there were prior incumbrances not disclosed; and *Smith vs. the Columbia Insurance Company* (5 Harris, 253,) is much relied on. We think this case is to be distinguished from that. The referee states that he was satisfied from the evidence, that the agent of the insurance company knew of the prior insurances, and the application produced in the handwriting of the agent, and not signed by the assured, is an entire blank as to the questions usually propounded, and especially as to incumbrances. There was no evidence whatever as to what actually took place between the parties in effecting the insurance. The rule in regard to the burden of proof, when there is concealment of a material fact, is laid down by respectable elementary writers to be this: that when the facts were of such a nature that, if communicated, it is unreasonable to suppose that the underwriters would have taken the risk on the terms which it appears by the policy that they actually took it at, the burden is on the assured to prove the communication. (1 Arnold, 575.) Now, in *Smith vs. the Insurance Company*, the evidence was direct that such was the nature of the fact. Here there was no evidence. The land, as compared with the building, was comparatively of little value. It did not appear that the company would have charged any higher premium if the prior incumbrances had been known. We do not think that there has been such a plain mistake in this respect as would justify us in setting aside this award.

Another exception applicable to all these cases is, that the property was under execution at the time the policy was executed. It is argued that this is not within the condition of the policy. That refers to future executions. It can only be viewed as coming under the head of concealment of a material fact; and what has already been said on that subject, now applies. There was no evidence that an execution upon real estate would have made a difference in the premium.

An exception was made in regard to the policy of the Provincial Insurance Company, that the judgment intended to be protected by it had been extinguished by a sheriff's sale. It is enough to say, that from the evidence before him the referee thought it had not been extinguished; nor has it been shown to us that that evidence ought to have led him to a different conclusion.

One more exception remains to be noticed, which applies only to the case of the State Mutual Insurance Company. The policy was filled up in the name of A. Rex, mortgagee, of Philadelphia. The mortgage was, indeed, made to him, but had long before been assigned to A. Rex, of Lebanon county. The application produced was A. Rex, of ——— county, in the handwriting of an agent of the insurers. The preliminary proofs were by A. Rex, of Lebanon, and were received without objection by the company. We do not think, in drawing the inference, that in the filling up of the policy there was clerical error, and that the person intended was the plaintiff, that there was any plain mistake of fact or law.

By the fire department report there were 336 fires (80 accidental, 152 by design,) in Philadelphia in 1857,\* involving a loss of \$499,223, with \$393,796

\* At the burning of a soap and candle factory, Market and Twenty-third streets, April 28, 1857, the damage was:—

A	Stock in large factory on Market street, . . . . .	\$14,192 11
B	Fixtures in same, . . . . .	3,957 13
C	Stock in factory fronting on Twenty-third street, . . . . .	1,628 84
D	Fixtures in same, . . . . .	580 00
E	Stock in one-story building adjoining the above, . . . . .	1,724 00
F	Fixtures in same, . . . . .	1,102 85

Total loss, . . . . . \$23,184 93

insurance—a year of about average fire loss, and in connection with the prevailing commercial revulsion and accompanying panic. In January, this year, a bill introduced into the house of representatives of the State legislature, to provide a board of three commissioners to inquire into the origin of fires, was rejected. In May, Mayor Vaux was induced to establish a separate branch of the police department to investigate the origin of fires, and especially for the detection of incendiarism and incendiaries. As a proposition, this was first suggested by Samuel S. Moon, secretary of the Commonwealth Fire. The Fire Detective Police was organized June 1, with Alexander W. Blackburn as chief. In the seven months ended December 31, the fire detective police arrested 54 persons who were charged with arson, attempted arson, conspiracy to commit arson, robbery and arson, or taken in custody on suspicion of arson. As the chief included all the “trifling” fires in his enumeration, his number of fires reported for the seven months was 438—average loss \$611.90. The seven months being a time of extraordinary financial disaster and business loss, suspicion was awakened as to fraudulent ignitions. The adroitly planned “camphene fire” was the especial dread of the fire insurer of the period. The chief was enabled to account, after close inquisition, for 62 of the fires, or 14.16 per cent., as being of actual or presumed wilful origin—apart from two cases of burglary and arson. It was inferred that the origins of all the fires were ascertained, excepting in ten instances. Under the head Accident the origin of 89 was placed, and 8 under the head Carelessness. Foul chimney, a declining cause of ignition, blazed in 27 instances; sparks from chimneys fired in 8 instances; the recent fluid lamp by exploding caused 24 small fires; upsetting of camphene lamps, 2; gaslights in show windows, 10, and lights too near window curtains the same number; drunkards, 12 in number, were unwitting incendiaries, and mischievous boys started 15 fires in their recklessness; children having the choice of playing with fire or matches, set 5 places in a blaze by fire and 8 by matches; vagrants sleeping in stables and barns 5, while all the machinery in the city started by friction but 4 of the burnings; defective building construction caused 2 fires, defective heaters 5, defective flues 12. Among other causes were 13 occurrences of spontaneous ignition, and Chief Blackburn had some knowledge of chemistry, which aided him in the investigation of such flame outbreaks; stove-pipes in too close proximity to woodwork fired the too near wood on 3 occasions, intense heat of glass enamelling oven made 2 fires, hot ashes 4, fireworks 2, lightning 2.

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There were general policies in five companies, viz.: \$5,000 each in the Commonwealth, the Manufacturers', and the Exchange Mutual, and \$2,500 each in the Great Western and the Merchants'. There was also a special policy in the Royal, of \$5,000, distributed among the above subjects of loss, as follows: A \$2,500, B \$1,500, C \$500, F \$500. The adjustment questions involved were submitted to Messrs. William Martin, of the Delaware Mutual, and A. G. Coffin, of the Insurance Company of North America, who apportioned the loss, *first*, as between the general and the special insurance, by applying successively the full amount of each general policy in contribution with each particular specific insurance of the Royal (A B C F); *i. e.*, payment on A, for example, was calculated as if A were the sole loss, etc., so paying A B C F in full, leaving \$1,038.69 to pay D and E. All the general insurance being thus exhausted, there was a deficit for the insured of \$1,265.31—the special policy of the Royal paying in all \$1,919.62. No principle of the contracts admitted of any segregation, the insurance being always *joint* wherever policies applied. Perhaps, as there was *not* \$20,000 general insurance on A B C F *alone*, in equity ~~2318~~<sup>2318</sup>ths of the \$20,000 general insurance (as the share of D and E) would not apply in conjunction with the \$5,000 special insurance; but this would have involved the doubtful assumption of insurance according to loss. Of course, the insured could not be as well protected where only one form of insurance applied as where both forms applied, and D and E in accurate accounting would neither gain nor lose by the special insurance on A B C F.



With whatever doubt, as to value of assets, the year 1858 opened, the year that had passed had brought no undue diminution of funds by excessive fires. For the United States there appeared to have been about 20 per cent. less fires in 1857 than in 1856. The fire loss of the country had now risen seemingly to an average of about \$25,000,000 per annum—perhaps more complete reporting and better collecting of data would have enhanced the figures to \$35,000,000. In November, 1857, while the commercial convulsion was overturning mercantile houses and alleged financial institutions, the Commonwealth Insurance Company increased its cash stock capital to \$186,200. The older fire insurance corporations of the city were strengthening by inherent growth, while the older marine and fire and marine offices were struggling with difficulties that were depressing. The Contributionship and the Green Tree were, without an effort, augmenting in funds and in perpetual insurances. Assets of the Franklin, January 1, 1858, were \$1,888,904.74; of the American, \$502,421.68; of the Pennsylvania, \$736,650.00; of the Fire Association, \$537,589.40; of the Spring Garden, \$149,341.13. The Reliance Mutual, after a career of thirteen years, presented \$250,473 of total assets (including \$177,926 of capital stock), of which assets \$57,363 were bills receivable (business paper). The Equitable Mutual, doing a fire business from 1853, claimed \$169,408.93 of assets, of which \$97,126.06 were "bills receivable and loans on collateral." Loans on business paper among the insurance companies of the city, generally with collateral security, now exceeded one million dollars. Against any adverse criticism respecting such loans, there is the argument that the banking element is inseparable from insurance, and insurance proceeds essentially as an interest account. With respect to the technical validity of such assets, the bill receivable was premium with marine offices, and asset sufficiency rests on premium sufficiency.

With premium receipt of \$28,107.61 by the Equitable Mutual in 1857, the losses incurred were \$8,283.22, while there were paid in the year \$7,556.25 of losses incurred in 1856. Dividends of the Fire Association to the fire companies were limited by supplementary act of April 22, 1856, to 30 per cent. "of the profits and income until the permanent capital stock [surplus over all liabilities] shall have reached \$200,000." Of the Girard Fire and Marine Insurance Company, the officers in 1857 were Joel Jones, president, G. W. Woodward, vice-president, John S. McMullin, secretary, and James B. Alvord, assistant secretary. A. S. Gillett, early in 1858, resumed official relations with the company, taking the position of vice-president, and the work of making the Girard a responsible fire insurance office was carried on with vigor, and, the sequel showed, with capacity.



## CHAPTER IX.

*Use by Employers of Prohibited Articles as known or forbidden by the Insured—The Lycoming Mutual—Failure to observe Policy Requirements on Sale of Partnership Interest—The Unity Fire Insurance Association of London—Steam Fire Engines—The Phillips Fire Annihilator—The Enterprise Insurance Company—The Term Policy of the Enterprise—Mortgageor's Assigned Policy not absolute Mortgagee Insurance—The Robert Morris Insurance Company—Specific Insurance of Mortgagee Interests—Explosion as Accident and as Designed Defence against Fire—Business of the Equitable Mutual and the Reliance Mutual and of the Consolidated and the Jefferson—Policy Issues of the Enterprise, January 1, 1859—Ground Rent Mortgage and Like Insurances of the Enterprise—The Northern Assurance Company of London and Aberdeen—The Northern's Policy and Average Clause—The Franklin and its Agencies—The Policy between Proposal and Contract Completion—Policy ordered to be discontinued by Company continued by Act of Agent—The Risks and Deposits of the Mutual Assurance Company—The Liverpool and London begins the Issue of Perpetual Policies—Philadelphia Risks of the Insurance Company of North America—President A. G. Coffin gives Information to City Councils—The Mutual Fire Insurance Company of Philadelphia—Statistical Münchhausenism—A Fantastical Barbarism—The Thief as a Fire Risk of the Insurer—"By Fire" and "by Means of Fire"—Notice and No Notice of Assignment—The Advance of the Girard and its Combined Application Chart and Duplicate Policy—The Robert Morris and the Consolidated discontinue—A Change of Name—The First Year of the Enterprise—Tabular Exhibit of the American, the Commonwealth, the Franklin and the Reliance Mutual—Members of the Philadelphia Board in 1860—Licensed Non-State Companies writing Fire Risks in 1860 in Philadelphia—Penalty for Wilful Burning to defraud Underwriter—The Business of the Agencies—Growth of Fire Insurance with the Increase of Building and Manufactures in the City—A Ground Leasehold not affecting Insured's Building Ownership—The Scrip Dividends of the Reliance Mutual—The City Fire Insurance Loss of 1860—A Jury finds a Planing Mill to be a Carpenter Shop—A Vessel burning at Camden, N. J., burns in the "Port of Philadelphia"—Notice of Occurrence of Loss not Particular Account of Loss—What the State Mutual, of Harrisburg, required—Further Contributionship Record of Fires in Night Inhabited and not Inhabited Buildings—The Fire Association—United Firemen's Insurance Company—Insurance terminated by Insured and Return Premium—The War not affecting, directly, the Philadelphia Fire Insurance Companies—James W. McAllister—William G. Crowell—As to Notice of Other Insurance, pro rata and specific—Additions to Represented Other-State Companies—The Supreme Court will not enforce the Act of May 7, 1857—The Introduction and Use of Refined Petroleum—The Rock Oil as Illuminant, Lubricant and Solvent, and its Fire Insurance Rating—Less Fires and Less Premiums—The City Fire and Metropolitan Fire and Live Stock stop—Petroleum Rates and Insurance Discriminations—Explosive Benzine—The Pro Rata Loss Payment Clause; Adjustments thereunder of Associated General and Special Policies—The Albany or Heald Rule—Unadjusted Claims subject to Attachment—Policy Uncertainty against Insurers—A "Levy" means taken into Possession—The Troy Fire of May 10, 1862—The Northern withdraws—New York Companies enter—The Equitable Mutual discontinues New Risks—Meeting of Agents, the Question of directly charging Insured with*

*the Federal Taxes—Statements of Samuel S. Moon and A. F. Hastings before the U. S. Senate Finance Committee—Dr. Jayne decides to close the Commonwealth Insurance Company—Retirement of the Unity—Business of the Mutual Fire Insurance Company of Philadelphia—Insurance does not cease with Wrongful Levy—Fires in the Six Years ended June 1, 1863—The Fire Department—A Federal Net Income Tax—The Exchange collapses and the Enterprise enters New York—The Exchange and its Mortgage Assets—Some Data of Philadelphia Companies—The Insurance Company of the County of Philadelphia removes to the Insurance Centre—The Home Insurance Company of Philadelphia—An Injunction against the Manufacturers' asked for—The Equitable Mutual revives as a Joint Stock Equitable—Agency Companies more Numerous and Fires maximizing—A Decision that a General Policy does not constitute a Double Insurance with each Specific Policy—A Petroleum Storage Fire—The Reliance Mutual becomes a Joint Stock Reliance—Enemy Incendiarism—Use of Carbonic Acid in Extinguishing Fires—The People's Fire Insurance Company and the Republic Insurance Company—The Two Leading Insurers of Philadelphia Fire Risks—Petroleum Statute Regulations—Fire Premium Returns of Philadelphia Companies to Assessor of Federal Taxes—The Great Fire Year, 1866—The Protection Insurance Company of Philadelphia—The Home, of Philadelphia, votes to close up—A Security Fire and Marine Insurance Company—A Proposal in City Councils to tax Dividends or Premiums. (1857-1866.)*

THE fire policy of the Farmers and Mechanics' had the following prohibition:—

Gunpowder, camphene, spirit gas, pine oil, spirituous liquors, or any similar inflammable liquid, or lucifer or friction matches, or fireworks, are expressly prohibited from being deposited, used, kept, or sold, in any building insured, or containing any goods or merchandize insured by this policy, unless by special consent, in writing on the policy, from the secretary. Any violation of this prohibition shall render the policy absolutely void.

A policy dated September 12, 1855, insured Ovid T. Simmons and William B. Dubois for the term of one year against loss or damage by fire, to the amount of \$3,000, on property contained in a brick building used as a steam-power mill, on the west side of Front street, between Market and Plum streets, in the city of Camden, N. J., and this property was burned May 19, 1856. Company refused to pay, alleging violation of the prohibition cited. Suit was instituted, and in the District Court, Philadelphia, Sharswood, P. J., there was evidence that matches were used by the men working in the mill, and that Dubois, one of the plaintiffs, was in the building in the evening when work was going on. There was also evidence of the use of a burning fluid. The plaintiffs asked the witnesses the following question: "What were the orders of plaintiffs as to the use of camphene, fluid and matches in the building?" The defendant objected to this question; but the judge overruled the objection, and admitted the evidence, and upon this point the court charged the jury as follows:—

As to the use of matches and camphene, the use contemplated by the condition must be a use by the authority, express or implied, of the insured. What, however, is going on habitually in the premises, the insured is bound to know; he cannot be permitted to shut his eyes and not see it. He will be presumed to know. If the plaintiffs knew, or as prudent men ought to know, that these things were used, their orders not to use them will not help them. This is giving a fair and reasonable interpretation to the terms of the condition. *Use* means known and permitted use. Habitual use will be presumed, unless the insured take measures to enforce the prohibition.

Verdict was for the plaintiffs for \$3,100, and defendant removed the cause to the Supreme Court.

Strong, J.: . . . . . The sixth and seventh assignments of error raise the only debatable question in the case. They relate to the instruction which the court



gave to the jury respecting the meaning of the policy of insurance. [Prohibition quoted.] . . . . . The court below instructed the jury, in substance, that the use of matches and camphene contemplated in the condition of the policy above quoted, must be a use by the authority, express or implied, of the insured, etc. [*ante*]. Was this a correct construction of the contract of the parties? We think it was. . . . . It is quite apparent that it was material for the plaintiffs below to show that the use of matches and camphene in the building, if any there had been, was not permissive, but had been prohibited by them. The question to the witnesses, what were the orders as to the use of camphene, fluid and matches, in that building, was therefore properly allowed. (6 Casey, 299.)

*Per se*, by the condition so adjudicated, specified articles and acts were universally inhibited. In the popular use of language, general terms are as extended in their application, if not limited by the context, as their inherent import admits. In *Farmers and Mechanics' Insurance Company vs. Simmons et al.*, a partial *commission* of what was forbidden was not violative. This was in respect to physical hazard in fire insurance. In respect to personal hazard, we cite the adjudication, *The Lycoming County Mutual Insurance Company vs. Finley et al.*, wherein *omission* as to direct compliance with policy terms, omission as to performance of an executory contingency, was inimical to recovery.

The Lycoming County Mutual was a Pennsylvania mutual fire office, going beyond the usual limits of companies of its class as to territory and risks. June 10, 1856, it had 16,582 policies in force, and the amount of its insurance was increasing yearly. April 1, 1851, the Lycoming issued a policy insuring Finley & Stanley (Richard Finley and Job S. Stanley), in the sum of \$1,000 upon a stock of lumber, tools, finished and unfinished work, and also machinery contained in a factory situated in West Philadelphia, for the term of five years. In addition to cash premium required, the firm executed their premium note for \$200. June 26, 1851, Finley sold out his interest to his co-partner, and the partnership was dissolved. Stanley continuing the business, paid the assessments on the note as they were demanded of the note makers. The seventh section of the act of assembly incorporating the company, provided that "when property insured by this corporation shall be alienated by sale or otherwise, the policy shall thenceforth be void, and be surrendered to the directors of the said company to be cancelled." The same was stipulated in the policy. There was no notice given to the company of the sale by Finley, nor of Stanley's sole ownership, and there was no assignment of the policy to Stanley. February 22, 1855, the property was totally destroyed by fire.

Action of covenant was instituted in the District Court, Philadelphia, by Richard Finley and Job S. Stanley, lately trading as Finley & Stanley, for the use of Job S. Stanley, against the Lycoming. The facts stated were undisputed, and the defence requested the court to instruct the jury that, under the law of the State, the action could not be sustained. The court refused to give such instruction, and charged the jury that the plaintiffs were entitled to recover. Judgment was given for plaintiffs for \$1,120—two years' interest included. The defendants having excepted to the charge, such charge was assigned for error.

Thompson, J.: . . . . . It was a fundamental condition of the contract, as well as a statutory provision, of which the assured were bound as members of the company to take notice, that alienation of the property rendered void the policy. But by



another condition contained in it, this might be avoided by the purchaser procuring an assignment of the policy, which being done, with the "approval of any agent or director," on signing a premium note for the same amount as the former holder, he might have the policy confirmed to him. This regulation was a reasonable and proper one, for otherwise the company would be obligated to have members and become insurers for parties without any knowledge of them, or consent on their part; but what we have most particularly to do with are these conditions of the policy, and whether a non-compliance with them is fatal to the plaintiffs below—and of this we have no doubt, unless there be something else in the case to avert such a result. . . . That a sale by one partner to another is within the prohibition, cannot be doubted; there is no exception in its favor in the instrument, and the terms used give no room to imply any. By the transaction the one parted with all his interest, and the other acquired double what he previously possessed.

If, then, there was a sale by Finley to Stanley before the loss, the former had no interest in the cause of action on his own behalf, or as trustee, and could not legally be a party plaintiff. There is no such thing as an equitable assignment of such a contract, as there is in relation to lands, and other *choses* in action, in which the assignor's name may be used as the repository of the legal title—having parted with the equitable—and the suit be brought in his name for the use of the equitable owner. The contract of the parties was the opposite of this. It was agreed that a sale should render the policy void; but it might be confirmed or renewed, if assigned in the mode pointed out—there is no other way to effectuate the object, *expressio unius est exclusio alterius*. So, not being permitted to stand as an equitable assignor, Finley having no interest, neither legal nor equitable, was not a proper party. (Howard *et al. vs.* The Albany Ins. Co., 3 Denio, 301; Murdock *et al. vs.* Chenango Ins. Co., 2 Comstock, 210; Saddlers' Co. *vs.* Badcock, 2 Atk., 554; Lynch *vs.* Dalzell, 3 Bro. Parl. Cas., 479.)

We do not perceive anything beneficial to the defendants in error, in the allegation of a waiver by the company of notice of sale and transfer of the policy, according to the conditions contained in it. No one is held to have waived his rights until it be shown that he has done so with a knowledge of them, or where it was his bounden duty to know them. It was the express duty of the purchaser of the insured property to give notice to the company, and have the policy assigned according to its conditions, if he wished it continued for his use. The company were not bound to inquire anything about it. His paying assessments on the premium note given by him and his co-partner was no notice, or anything from which the company could infer a change in their former relation, even if notice in this way could avail, which it would not. Nor was there anything like a waiver in choosing appraisers of the value of the property lost by the fire. Their report recites that it was between Job Stanley, acting partner of the late firm of Finley & Stanley, and the company. In this shape it received the approval of the agent as to amount. If this proceeding proved anything, it was that the company were still ignorant of any change of ownership in the property insured. We are therefore of opinion that the grounds of waiver assumed by the plaintiffs were untenable. For all these reasons, the judgment must be reversed. (6 Casey, 311.)

William Whitall was the Philadelphia agent of the Lycoming Mutual at this time. Non-local fire companies represented by agents now nearly equalled in number the local companies issuing fire policies. The average character of such entrants was advancing, and it began to be indicated that increased facilities for insurance would be rather by accessions to the agencies than increased number of local companies. The Unity Fire Insurance Association of London, a quasi corporation organized in 1852, entered the United States—George Adlard, of New York, manager—with \$150,000 invested in the name of three American trustees. William D. Sherrerd was appointed agent of the Unity, for Philadelphia, late in 1857. Represented New York and Hartford fire insurance companies especially, were increasing.

Progress in the construction of steam (forcing) fire extinguishing engines (now less cumbrous than the first Cincinnati contrivance), evinced that such engines were practicable, and if practicable, with the latest improvements there would be a gain in height and distance of water thrown, and volume

of water so projected.\* A committee of the Philadelphia Hose Company had been appointed, consisting of C. T. Myers, John E. Neille, John K. Kane, Samuel V. Merrick, Thomas S. Crombargar, William D. Sherrerd, and Richard Vaux, to negotiate with Philadelphia mechanics for the building of a steam fire engine; and an engine built by Reaney, Neafie & Co. was delivered to the hose company January 21, 1858, and other companies of firemen began immediately to make arrangements for obtaining similar apparatus. The weight, exclusive of water, of the Philadelphia steam fire engine (upright tubular boiler with reciprocating steam pumps) was 7,455 lbs.; time for raising steam from cold water to 60 lbs. pressure, 11 min. 8 sec.; vertical throw of water, 120 lbs. pressure and  $1\frac{1}{4}$  inch pipe, 110 feet; horizontal, 163 feet; with capacity for throwing 306 gallons of water per minute.

Organization for fire insurance only was begun in 1858 under an authorizing act of April 9, 1856, creating, in conformity to the general incorporation act of April 2, of the same year—class first—the Enterprise Insurance Company. Subscriptions were taken upon an authorized capital of \$200,000; president F. Ratchford Starr, after the resignation of Nalbro' Frazier, secretary William Getty. William Getty resigning the secretaryship to take the agency of a foreign company, he was succeeded by Charles W. Coxe; Thomas H. Montgomery, assistant secretary. The policy of the Enterprise for temporary risks, as the like policy of the Commonwealth, was nearly the same as to conditions and the same in risk classification as had been set forth by the Philadelphia Board of Fire Underwriters for policy on temporary risks. To VIIIth of the board's Terms and Conditions the Enterprise added the following:—

When merchandise or other personal property is partially damaged, the assured shall forthwith cause it to be put in as good order as the nature of the case will admit, assorting and arranging the various articles, according to their kinds, separating the damaged from the undamaged goods; and shall cause a list or inventory of the whole to be made, naming the quantity and cost of each kind. The amount of damage shall then be ascertained by the examination and appraisal of each article by disinterested appraisers mutually agreed upon.

It is mutually understood that there can be no abandonment to this company of property insured.

(The last sentence was in synonymous terms in the Commonwealth's modification, but, different from the Commonwealth, the Enterprise did not contain the stipulation or exception: "The company shall not be liable to make good any loss by theft or property stolen"; *i. e.*, as consequent upon the happening of fire.)

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\* Gaseous and (applied) steam extinguishment yet remained a conjecture and a matter waiting upon invention and discovery. Among the attempts to advance upon water extinguishment, that of the Phillips Fire Annihilator was the most noted. This was substantially a pyrophorus in the centre of an encircling compound, the latter evolving, when heated, gases not supporting combustion, with water below and exterior to it in an outer surrounding cylindrical receiver. That is, the Annihilator was an apparatus with different vessels, one set within another, and through suitable perforations steam mixed with suffocative gases, and was discharged as a cloud of vapor through an opening at the top of the machine. The compound referred to was composed of 20 parts powdered charcoal, 60 parts saltpetre, and 5 parts gypsum, which had been boiled in water and dried at 100° F. The pyrophorus in the centre of this tile-like ring was sugar and chlorate of potash in a bottle, with the requisite sulphuric acid placed in a bottle above. A spike forced down broke the bottles, and the igniting of the sugar and potash by the sulphuric acid inflamed the surrounding composition, and the generation of gas and steam resulted; but in a conflagration, the draught of air caused by the heat dispersed the dense vapor rushing through the opening in the top of the apparatus. In the spring of 1860 one of these Annihilators exploding in a printing office in New York, set fire to the place, causing damage to the amount of a few hundred dollars.



The Enterprise further changed from the board's regulation the term for commencement of suit for disallowed claim, from six years to one year.

In respect to whatever language might be employed in such instruments to exempt from liability (and among the companies policies tended towards general conformity), the fact yet remained, that while companies could contract, they could not make the law of the contract.

There was a panic in the summer of 1858, among mortgagees holding policies transferred to them by the insured owners of the properties mortgaged, by reason of a decision rendered by the New York Court of Appeals,\* and a strong public sentiment was manifest against fire policy conditions in general. One of those outbursts originating in misunderstanding of the relative relations of one to the other, through which insurer and insured antagonize each other; and as an accompaniment of such antagonism on one side the loss claimant is an incendiary, and on the other side the policy is a device of a sharper.

Another fire insurance experiment was begun in the organization under the special act of April 15, 1856, creating under the act of April 2, 1856, the Robert Morris Insurance Company—subscribed capital \$50,000; Paul T. Jones, president, William Vanderveer, vice-president, Gilbert S. Sterling, secretary, as at first organized or subsequently reorganized. In the contracting of this project was this timely condition:—

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\* The New York Court of Appeals reversing judgment of the court below, and deciding that a new trial should be granted in *Grosvenor vs. The Atlantic Mutual Insurance Company of Brooklyn*, (17 N. Y., 391,) held that the assigned policy securing the mortgage debt merely appointed the mortgagee to receive any money, by reason of loss sustained by the mortgageor as owner, and that the rights of such appointee or payee ceased with the determination of the mortgageor's interest. There was no question as to the validity of the assignment of policy to Grosvenor as mortgagee, but the court held that this created no mortgagee insurance *per se*. McCarty effected insurance in the company upon his three-story brick dwelling house, upon which Grosvenor held a mortgage, and fire occurred; but before the fire McCarty sold and conveyed the property, his insurable interest therein then ending. Whatever criticism might be made upon other court decisions, it was manifest that McCarty could not convey to Grosvenor beyond the measure of his possession. Before such decision was made, life insurance companies—first The Mutual Life, of New York—and savings funds, to secure their extended interests as such mortgagees, adopted and enforced upon the fire companies a form of policy giving absolute mortgagee insurance under such assigned policies; the fire insurance company being, upon payment of the loss, subrogated to all the rights and interests of the mortgagee.

Then the Supreme Court of Pennsylvania, at Pittsburgh, later in 1858, reversed the judgment of the District Court of Allegheny, in an action of assumpsit by Morris Roberts, for the use of John Scott, against the State Mutual Fire Insurance Company.

Strong, J.: . . . . . The risk in this case was upon the interest of the owner in a dwelling house. The contract was made with him, and the policy was taken out in his name. With the consent of the insurers, he then assigned the policy to Blackburn, to whom he had given a mortgage upon the property insured, and also upon other property. The mortgagee assigned the policy to Scott, the equitable plaintiff, also with the assent of the defendants. Afterwards, Roberts, the party assured, effected another insurance upon the same building with a different company, and gave no notice thereof to the defendants, nor had it endorsed upon the policy issued by them. The naked question is, whether the second insurance, having been made by Roberts without notice to the defendants, after the assignment of the first policy, avoided it.

It is not denied that in the hands of Roberts, the original assured, the policy would be utterly worthless; but it is insisted that in the hands of Scott, who holds under an assignment with the consent of the defendants, it is still available. A policy of insurance is not a negotiable instrument. It is assignable only in equity. Consequently, the assignee takes it subject to all the equities which existed between the original parties at the time of the assignment. He takes it, however, burdened with no other equities than those which existed at the time of the assignment and notice thereof. But it does not follow from this, that by the assignment and notice the underwriters are deprived of the continued protection of the stipulations of their contract. These are not equities; they are legal rights, which are cut off by no transfer of the instrument. While subsequently accruing secret equities between the original parties, and those which may arise outside of the contract, cannot affect the assignee, yet he takes the instrument as it is, bound by all its expressed provisions. The assignment does not change the contract; it simply converts one of the parties into a trustee for a third person. Every condition precedent upon which the liability to pay is made to depend, remains as before. . . . . (7 Casey, 438.)



This policy shall not be invalidated or in anywise affected after its assignment as a collateral security to a ground rent or mortgage, and the approval of such assignment by the office, by any transfer or conveyance of the mortgaged premises by the owner of the same.

Such an insurance was proper enough when the insurer understood the risk and how to rate the higher of the two hazards; but the amount of information possessed by the Robert Morris respecting the difference of jeopardy between the insurance of the transferred owner interest in the policy and the distinctive insurance of the involved mortgagee interest, was not extensive.

Then the Philadelphia Fire and Life, advancing beyond the adventuring of the Robert Morris, announced that it had "prepared a form of policy which will protect the interests of the mortgage, no matter what change may take place either in the ownership or occupation"; *i. e.*, a direct and absolute mortgagee insurance, not one collateral and contingent. Cancellation of policy was, however, a recourse of the company—more or less available—in case of any exigency arising from such concession.

The lingering Continental, fire and marine, was in District Court No. 2, in December, suit having been instituted on a claim for loss occurring in Americus, Ga., September 6, 1857,—the Continental having at the time about \$38,000 unpaid losses in both branches of its business. In the fire policy there was the following clause:—

Any explosion *whatever*, occurring upon property herein insured by this company, shall render this policy void and of no *further* effect.

In the progress of a fire, it reached the insured property, a variety store, and the citizens in their efforts to prevent the spread of the flames, blew up buildings with gunpowder.

Sharswood, P. J.: . . . . . It appears that the fire in question did not originate on the premises insured, but it had reached them, and they were burning, when the citizens, assembled with the view to extinguish the fire and prevent its spreading further, applied gunpowder and blew them up. Had this measure been resorted to before the fire had actually begun its work of destruction on the property insured, it might be a question whether the underwriters were liable (*Hillier vs. The Allegheny County Mutual Insurance Company*, 3 Barr, 470), but here, altogether apart from the fire caused by the explosion, the proximate loss was by fire not caused by an explosion. The case is like the destruction of goods by water applied to extinguish the flames which had caught them, or the building in which they are stored. If left to themselves, they would have been inevitably destroyed by the fire—it would last as long as it had fuel to feed on. . . . . We construe this clause, more for the interests of the underwriters, when we say that fire *originating* from an explosion of gunpowder was what was meant to be guarded against, and not an honest effort, even if it was injudicious, on the part of those present to stop the flames. (*Greenwald vs. Insurance Company*, 3 Phila., 323.)

The policy was, in its terms, an insurance against loss by fire, and not against loss by explosion, fire and explosion being contradistinguished in the instrument, whatever might be their analogy in physical science. Outside of rules and usages of judicial interpretation, the policy ceased to apply *when* any explosion occurred which affected the insured property, but such a construction would have theoretically necessitated an impracticable appraisement of loss by burning up to the instant of explosion; and further, a contract to secure against loss by fire—a public as well as private danger—could not consistently, nor legally, stipulate against the only available means to extinguish fire as a public exigency.

The jury rendered a verdict for the plaintiff for \$2,100. Before the Continental disappeared, two or three months later, with a possible nominal assignment, in another superfluous litigation a verdict was given against the company for \$1,695.52—schooner damaged in a storm; and the defence was the alternative either unseaworthiness or deviation of voyage.

In respect to the two "mixed" fire offices, the Equitable Mutual received \$28,291 premiums and interest in 1858, paying \$3,886 losses, and the Reliance Mutual received \$52,925.42 premiums and interest in 1858, paying \$12,757.23 for losses.

A dividend of 6 per cent. for the year was declared on the capital stock by the Reliance, and also a 5 per cent. scrip dividend *pro rata* on the capital stock and earned premiums. The scrip, "liable equally with the capital stock" for the losses and engagements of the company, could be converted into capital stock at any time at the option of the holder.

The joint stock Consolidated had 830 policies in force January 1, 1859, covering \$1,758,787. It received premiums and interest in 1858 amounting to \$36,638, and paid \$15,176 of losses. Claiming \$184,994 of assets, almost the same figures as the Spring Garden, its stock was without any market value. The Jefferson, also a small recent office, writing a larger proportion of building risks than the Consolidated, with \$18,871 of premiums and interest received in the year, paid but \$353.21 for losses.

Of the \$200,000 subscribed capital of the Enterprise, \$100,000 were paid in by January, 1859. Issue of policies began January 1, viz.:—

No. 1	\$5,000	Premium \$30.00	Dry Goods.	Market street.
2.	5,000	" 32.50	Merchandise.	S. Water street.
3.	5,000	" 30.00	"	Chestnut street.
4.	5,000	" 37.50	"	Commerce street.
5.	5,000	" 27.50	"	Chestnut street.

This office united in the special insurance provision for the guaranty of the mortgagee under assigned policy of the mortgageor, with the guaranty of other securities resting on real estate. In the conditions of the perpetual policy of the Enterprise were the following:—

IV. Where a ground rent, mortgage, or other lien on real estate is specifically insured, such insurance shall not be affected by any sale, or change of occupation or use of the premises mortgaged or changed, without the knowledge of the insured, though the risk may be thereby increased: Provided, that the insured shall, within thirty days after he shall be informed of such sale or change of occupation or use, give due notice thereof to this company. In all such cases, upon any loss, the company shall have the option of paying to the insured, either such proportion of the sum insured as the damage by fire to the premises mortgaged or changed shall bear to their value immediately before the fire, but not exceeding such value, or else the full amount of such lien or mortgage debt, or the principal of such ground rent, in which latter cases this company shall be entitled to require an assignment of such ground rent, mortgage or other lien, in due form, together with a declaration of the owner of the ground, or (if the same cannot be obtained) then other sufficient evidence that he has no defence or offset thereto. All such insurances shall be subject to the express condition that a marketable title can be shown to the premises, and that the mortgage, lien, or ground rent is the first lien or encumbrance thereon, unless otherwise expressed in this policy.

V. Where a policy issued to the owner of a building shall be duly assigned to the holder of a mortgage or ground rent thereon, as collateral security, no subsequent breach of or non-compliance with these conditions by the owner of the building, without the



knowledge of such assignee, shall avoid the insurance, so far as the interest of the latter shall be concerned; but in case of any such subsequent breach or non-compliance, the insurance shall thenceforth stand in all respects as though originally effected on such mortgage or ground rent specifically, and be subject to all the stipulations and provisions contained in condition IV of this policy.

By the licensing in January, 1859, of the Northern Assurance Company of London and Aberdeen, William Getty, resident attorney of the American branch, the third was added to the foreign fire and life offices then transacting business in the city. The Northern began as an association at Aberdeen. In 1848 the office was incorporated, with the individual liability of the shareholders remaining in force—a non-corporate principle. The London office had the direction of the company's foreign business. In the Northern's fire policy, as in the Royal's, for the specific articles damaged or destroyed through spontaneous ignition the company was not liable, but damage or loss of other property occasioned by such fire was made good. The Northern's insurance was either full indemnification within the policy sum, or the proportion of the average clause; the latter varied in application, as follows, according as its insurance was sole or additional:—

It is hereby declared and agreed, that in every case where sums insured are declared to be subject to this condition [of average], if the property insured thereby, in any of the buildings, places, or limits, to which such sums refer, shall, at the breaking out of any fire or fires, be respectively of greater value than the sums so insured thereon, then the company shall pay or make good to the assured or assureds, such a proportion only of the loss or damage as the sums so insured shall respectively bear to the value of the said property within any of the buildings, places, or limits so referred to, at the time when such fire or fires shall first happen.

But it is, at the same time, declared and agreed, that if the within mentioned assured or assureds shall, at the time of any fire, be insured in this or any other office, on any specified property, or on property in any specified building or buildings, place or places, included in the terms of this average, this policy shall not extend to cover the same, excepting only so far as relates to any excess of value beyond the amount of such specified insurance or insurances, which said excess is declared to be under the protection of this policy, and subject to average as aforesaid.

The policy terminated at 6 P. M., and not at noon, of the final day. Account of loss was to be presented by the claimant within fifteen days after the occurrence of the fire, and loss was payable immediately upon verification of the claim. The Northern's lines on fire risks extended to \$25,000 on first-class merchandise and building hazards, and to \$10,000 on special hazards.

Of the established fire offices of the city, the Franklin alone was now insuring non-local risks otherwise than as exceptional incidents and with the methods of an arranged agency system. Despite, however, of added hazards, deficient return of receipts with increased ratio of expense, impediments and many uncertainties, the era of the telegraph, and the railway with swift postal communication was counteracting the adverse lessons of earlier experience. From the first the Franklin had cautiously advanced as an agency office, but ever and anon it was reminded that one must slip in slippery places. At home, the company could control the risk measurably; abroad, the risk, with the courts behind the policy, controlled it.\*

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\* Lowrie, J.: . . . . . We incline also to the opinion, that notwithstanding the express terms of the policy, the countersigning by the agents is not, under all circumstances, essential. On an equitable interpretation of the whole transaction, it may become the duty of the court to dispense with a



A fire occurred at Bowling Green, Caroline county, Va., on the night of November 11, 1856. A policy of the Franklin on the burned property had been ordered to be cancelled, with return of renewal premium, of which the insured had received notification; but the Franklin insured the property while it was burning, despite of the company's efforts to the contrary. The policy was originally effected October 13, 1847, by John Minor, an agent, residing at Fredericksburg, to insure annually John Vaughn, to the extent of \$3,145 on his tan-house and other buildings appurtenant thereto, and his stock of bark, leather, etc., therein contained. Such policy was renewed from time to time, the payment of the premiums being made to Minor, and by him endorsed on the policy. January 9, 1854, the policy (sum insured now increased to \$3,420) was assigned to John P. Massey, and approved in due form by Minor; and subsequently thereto it was three times renewed to Massey. February 16, 1855, and March 5, in the same year, the Franklin instructed its agent to confine insurances to ordinary risks, and decline all other risks whether new or renewed. October 30, 1856, having received from Minor a report of the renewal of the assigned policy, and another which it deemed extra hazardous, the company instructed Minor to return these parties the premiums on their insurances, and cancel the policies.

November 1, 1856, Minor addressed the following letter to Massey:—

FREDERICKSBURG, VA., November 1, 1856.

*Mr. John P. Massey, Bowling Green, Caroline Co.*

DEAR SIR:—I received last night a letter from the secretary of the Franklin Fire Insurance Company of Philadelphia, in which he says that your property insured per policy No. 77,502, being on tanning establishment, and taken at one per cent., is declined. He adds: "We have not a risk of this kind on our books at less than two and a half per cent., which we obtain without any difficulty. Every renewal is a new contract, and the company reserves the right of rejection upon returning the premium, but the property is regarded as insured during the intermediate term." I should therefore send you a check for the premium, but having a few days ago transmitted to Philadelphia all the funds in my hands belonging to the agency, and my private stock being insufficient for the purpose, I shall have to put it off for a few days.

Respectfully yours,

J. MINOR, Agent.

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portion of the forms of a contract, if it can find any reliable substitute for them, on the principle that cures defective executions of powers where the intention to execute is sufficiently plain.

This contract was to be completed when delivered by the agents of defendants, and we regard the countersigning by the agents as the appointed evidence of its proper delivery. If we do not find this evidence, we must treat it as not delivered, unless we have other evidence which we can regard as equivalent. It seems to us that a final delivery by letter, being also by writing, may be treated as equivalent, and this brings us to the question: Was there such a delivery? If not, of course there was no perfect contract between the parties. At this point millions of money may depend upon a farthing or a signature, or a word, for so long as the parties differ by a farthing, the contract is imperfect and establishes no relation.

Was there a final delivery? Here we must refer to the letter accompanying the policy. It shows that the company had not accepted the terms which had been arranged between Myers and the agents, but had prepared a policy on different terms. Of course, therefore Myers had as yet made no contract. His proposal was not accepted, but another proposal in the shape of a new policy was sent to him, and his acceptance of this proposal, according to its terms, was essential, in order to give it the character of a contract. He was told in the letter that the new terms "require the whole of the premium to be paid in cash, which, if you do not wish to comply with, you can return this policy, and we will return to you the amount paid us, with your note"; and he was further informed that there was a balance yet due on the first payment of \$2.57½. This, therefore, was very plainly a conditional, and not a final delivery; a proposal and not a contract. It was to be a final delivery as a contract if Myers agreed to it, accepted the new terms, returned the old policy and paid the balance, and we have no evidence that he did either, except by his retention of the new policy, of which certainly there is no evidence, and cannot possibly be called an acceptance so long as any single thing remained open for dispute or treaty, or anything to be done by him remained undone. (Myers vs. Keystone M. L. Ins. Co., 3 Casey, 268.)

November 11, 1856, Minor again wrote to Massey, enclosing his check for the return premium, which was received on the 13th; but on the night of the 11th, or the morning of the 12th, the premises insured were destroyed by fire.

In error to the District Court of Philadelphia. Read, J.: . . . . .  
By the payment of the last premium, the policy was continued one year from the 13th of October, 1856. From the course of business and from necessity, the agent at Fredericksburg was clearly an authorized officer of the said corporation, for the time being, with power to receive premiums for continuances, and by his acknowledgment in writing, to bind the company for another year. It therefore lies on the company to show that this agent had no such power, and that such want of power was communicated to, or known by, the plaintiff below. All the previous acts of Mr. Minor had received the approval of the company, and we can see nothing in the evidence which was in any way likely to put the holder of the policy upon inquiry, as to the nature and extent of his authority.

On the 16th of February, 1855, after the transfer of the policy to Mr. Massey, and the receipt of the first premium from him as assignee, the secretary of the company wrote a letter to Mr. Minor on the subject of extra-hazardous risks, and enclosed a printed set of instructions, and on the 5th of March another letter of similar tenor. Neither of these letters were exhibited to Mr. Massey, and the printed instructions, which were not followed by the agent in some important matters, if shown to him contained nothing affecting his standing in this case. By the 11d instruction, "all insurances, whether new or renewed, also all changes or endorsements on policies, to be reported daily." This was never followed. Under the XIth instruction, about monthly accounts, Mr. Minor, at the close of October, 1856, sent his October account, containing the premium received by him for its renewal on the 14th of the same month.

. . . . .  
On the 11th of November, Mr. Minor wrote, from Fredericksburg, a letter to Mr. Massey, at Bowling Green, enclosing a check for the premium, \$34.20, which could not reach, by course of mail, its destination before the 13th of November, at 2 o'clock P. M. It is clear, therefore, on their own construction of their contract, the property remained insured until the 13th of November; and as the fire happened on the night of the 11th, or the morning of the 12th, the company are, of course, liable for the loss. (9 Casey, 221.)

In February, 1859, the perpetual policies in force in the Mutual Assurance Company (Green Tree) aggregated an insurance of \$5,842,095.57 "in and near" the city—average rate of deposit  $2\frac{7}{8}$  per cent., with net interest accumulations more than double the sum of the deposits. The agency of the Liverpool and London had begun the issue of perpetual policies, and the amount in the city covered by perpetual policies on buildings was a large proportion of the total fire insurance in force on property in the city.

With the steam engines of the volunteer fire department, completed or in the course of construction, increasing nearly at the rate of one per month, and fires occurring rather below the average rate of conflagration for this fire periodicity, the establishment of a municipal paid fire department was again agitated. In a letter of date of February 28, replying to a series of questions propounded by city councils, and set forth with a view to elicit information with regard to losses and fire insurance prices, President Coffin gave an enumeration of this character, with respect to insurances outstanding on city property in the Insurance Company of North America:—

	Insured.	Average Rate of Premium.
Buildings under annual policies, . . . . .	\$ 382,068	0.90
Merchandise—annual policies, . . . . .	4,697,193	1.07
Annual rates on dwelling houses—brick, 25 cents; frame, one per cent.		

In the merchandise were included many extra-hazardous risks. Mr. Coffin said: "The premiums on merchandise in warehouses generally range from



50 cents to 75 cents per \$100 insured. . . . My connection with this company has existed for nearly thirty years, and within that period the rates on risks on merchandise have more than doubled, while the rates on dwelling houses and furniture remain about the same." For the buildings containing the merchandise the statement was:—

The annual rates of premium on buildings, charged by the best insurance companies, are as follows.—

First-class stores and warehouses, . . . . .	30 cents.
Second-class " " . . . . .	35 "
Third-class " " . . . . .	40 "
And frame " " . . . . .	100 "

With additional charges for extraordinary height, depth, skylight, communications, and additional tenants.

April 4, the Mutual Fire Insurance Company of Philadelphia, incorporated March 1, began business; president Benjamin Malone, vice-president James Smedley, secretary T. E. Chapman. Its premiums were cash and assessable notes, and it was the first office of such character located in the non-rural part of the consolidated city.

The steam fire extinguishing apparatus, with the great discharge of water under such fire enginery as was in vogue, increased the proportion of loss for goods damaged by water. Loss by fire and water, however, in 1858, had been reported by Chief Blackburn at only \$285,729, with \$172,315 of insurance upon the burned property, though the fires of the year were attended with great loss of life and many personal injuries. In 1859 fires were burning at a corresponding low rate of destruction, when on the basis of the data reported to city councils, and collected with reference to the advisability of a paid fire department, the following statistical analysis and elucidation were made:—

The annual tax paid in Philadelphia on account of the high rate of insurance is equal to one-third of the whole municipal tax. Assuming the value of the merchandise that is insured in Philadelphia at annual rates to be \$100,000,000, which is believed to be much below the true amount,—

\$100,000,000 at Philadelphia rates, 65 cts., =	\$650,000
100,000,000 at London rates, 12 cts., =	120,000
100,000,000 at Boston rates, 40 cts., =	400,000

Showing that if our insurance companies could afford to insure at the current rates of insurance in Boston, it would save those insuring \$250,000 in one year, and if it could be reduced to the rates current in London, it would make a saving of \$530,000 in a year.

A premium income of \$650,000 on merchandise risks *alone*, and not including short-term merchandise risks, with all the insured *buildings* in the city and all the insured machinery and stock of the *manufactories*, and all the other insured contents of buildings, burning together with merchandise, and sustaining together with merchandise an annual loss of less than \$300,000, year with year, would have been such a paradise of profit to fire insurance dealers that they would have looked out from their experience otherwise upon the delightful gains of an underwriting elysium.

Another instance of insurance opinion at the time was couched in one of Mr. Henry C. Carey's Letters to the President of the United States, on the Foreign and Domestic Policy of the Union, and its Effects as exhibited in the Condition of the People and the States. Mr. Carey was a well known political



economist, who had been the nominal president of the Franklin from October, 1834, to February, 1837. Introducing increasing insurance rates as a sign of decrease in public security, he declared that—

In a state of barbarism, person and property being insecure, the rate of insurance is high. Passing thence towards civilization, security increases, and the rate of insurance declines, as we see it to be so rapidly doing in reference to fire in all the advancing countries of Europe.

History has forgotten to record the insurance and the rates of the barbarians, though in the dawn of vanished civilizations, glimpses of such prudential provision dimly appeared. A more complex society combines substances and conditions in proportions not within the scope of a more simple social state, and out of the complexity of such augmented combinations come divergences in eventuality. Such a construction as steam machinery symbolizes civilization, and the friction of its belting, axles and journals is not barbarism. Spontaneous ignition, attendant upon chemical reaction, extends as the products of art multiply; invention and discovery introduced vegetable distillates as illuminants, to take the place of the tallow candle and the animal oil lamp; but civilization was not depreciated by the explosive inflammability of the hydro-carbon vapors. The Scythian, migratory or located, was insecure, but he was safe from the fire that wastes the wealth crowded in the magazines of richest emporiums. Insurance relates not to amount of material insecure, but to amount of *value* insecure. The perils of value are manifold. Civilization could reduce the marine rate so far as the pirate, the time of a voyage, and national restraints and detainments and captures were concerned, but it increases the causes, the subjects, and the opportunities of conflagration. The proposition quoted had some application to a high rate of interest, but none to a high rate of fire premium.

It has been said that, as compared with barbarism, in a civilized state crimes against the person decrease, and those against property increase. Evidently the old marauder had not the opportune values within the approach of the modern thief. The thief as a fire risk of the insurer, was a question in the courts. Fire policy of the now terminated Independent Mutual contained this clause:—

In case of fire, or of loss or damage thereby, it shall be the duty of the insured to use their best endeavors for saving and preserving the property, and it is mutually understood that there can be no abandonment to the insurers of the subject insured.

The company insured William Agnew, trading as Agnew & Co., against loss or damage by fire to the extent of \$10,000, upon a stock of merchandise contained in a four-story brick and iron store, No. 196 Chestnut street. January 2, 1857, about 2 A. M., the premises were discovered to be on fire in the third story, which was occupied by a daguerreotypist; and Agnew, who occupied the first and second stories, proceeded at once to remove his costly stock of dry goods—somewhat damaged by fire, but more seriously damaged by water, and there was loss by removal.

After the fire, appraisers were appointed to estimate the damage "by fire." The agreement provided that the appraisement and estimate so made should

be binding on both parties, "so far as regards such appraisement; it being understood that this appraisement is without reference to any other questions within the terms and conditions of the policy, and being so far only as regards the value of such property as may be found to have been injured or destroyed by said fire." In such appraisement a claim was presented on a large amount of goods as having been lost or stolen during the process of removal on account of the fire. The appraisers made as valuation of damage by fire \$11,102.51; and, by compromise, for goods alleged to have been lost or stolen, \$9,388.97. (Total insurance was \$40,000 in six offices.)

In an action in the District Court a verdict was rendered for the plaintiff, Agnew, for \$5,618.61.

Rule for a new trial. Hare, J.: Defendants contend that though the verdict be otherwise correct, there was error in instructing the jury that if to save goods from fire it was necessary to remove them, and they be lost or destroyed, even by theft, the insurers would be answerable, it being for their benefit. The policy is said to be against fire, and not against theft, and the maxim *causa proxima*, etc., is cited as unanswerable. This argument might be unanswerable if the maxim were as much in favor of insurers as against them. It is always true against them, because they undertake to indemnify and are answerable, but it is not necessarily conclusive in their favor.

The evidence being direct, the jury must be considered as having found that the goods were stolen during removal from the burning store, and it was as much occasioned by the occurrence of the fire as goods damaged by water in the store; and if the latter be conceded as covered, so ought the former to be.

Argument for the plaintiff has a still broader base, that sacrifices made by any one for the benefit of another in pursuance of a legal obligation, must be made good by the party for whom such sacrifice is incurred. In Story's Equity Jurisprudence this principle is shown to pervade the whole circle of human relations, and a great number of instances are cited, and among them general average, which is said, like the others, to have its foundation in the sentiment of natural justice rather than in contract. Unless some valid distinction can be taken between fire and marine insurance, the same rule must prevail.

If it is the duty of occupants of a burning house to carry out the furniture, or even lower or throw it from the windows, they ought not to be the losers by so acting; nor does it matter whether the injury arises from the fracture of a mirror, etc., by fall from a window, or the abstraction of a bale of goods by a thief after it is saved from fire and on the pavement. For such reason I am strongly of the opinion that in all such cases the losses resulting should be borne by the insurer, and not by the insured. What difficulty arises is from want of precedent. No aid can be derived from *Hillier vs. The Allegheny Insurance Company*, (3 Barr, 370,) because the building was not actually on fire—the removal being anticipatory of a danger which did not come to pass. That decision only establishes that the insurers were not liable unless the peril arises within the limits of the risk as defined by the policy. *Case vs. The Hartford Insurance Company* (13 Ill., 676,) is more nearly to the point, and goes far to sustain my view; but it is not binding as an authority beyond the jurisdiction of the court deciding it. I therefore concur with my brethren in preferring that the question should be carried, by a bill of exceptions, to the Supreme Court, where alone it can receive a final decision. We therefore discharge the rule for a new trial, as the best, and indeed the only means, of enabling the parties to bring the case at once before a higher and ultimate tribunal. (3 Phila., 193.)

Independent Mutual Insurance Company *vs.* Agnew. Read, J.: . . . . . With all our efforts at organization, we have not yet been able so thoroughly to occupy a building and all its approaches by the police and fire departments as to entirely exclude those common thieves who form a part of every crowd in a populous community. It is therefore one of the risks necessarily contemplated by the insurer, when he requires the insured to use his best endeavors for saving and preserving the property, that in the process of so doing some may be lost, or stolen by dishonest persons. Goods thus taken or stolen are clearly within the spirit of the policy and its conditions, and the only question is, do the decisions countenance such a construction of the instrument?—always recollecting that actual destruction by fire is not necessary to sustain a claim under it. . . . .

This, in fact, disposes of the whole case, for the court, after the admission of the written agreement to refer, which really covered losses by theft, and the declaration of the appraisers, were clearly right in admitting in evidence the report made by them in



pursuance of the agreement, under the first count in the declaration, although not evidence under the account stated. (*Bates vs. Townley*, 2 Exch., 155.) The reduction made in their report from the actual deficiency was favorable to the plaintiff in error, and when connected with the preceding part of their finding, discloses no such error as obliges the court below to reject the instrument itself. Judgment affirmed. (10 Casey, 96.)

For the plaintiff in error, *Lanigen vs. Insurance Company* was cited. This was a cause tried at Nisi Prius, January 23, 1857, and in such trial Chief Justice Lowrie instructed the jury that "the plaintiff cannot recover against the defendants for goods that may have been stolen from the shop after the fire originated, and after the shop was broken open in order to extinguish the fire, and during the occupation that was consequent upon the fire, for the defendants have insured against the fire only, and the damage that may be done by it, and by the water used in extinguishing it, and so as to prevent their entire consumption."

In the first perpetual policies the phrasing was either "by means of fire," or else "by reason or by means of fire"; the more direct phrase "by fire," in temporary policies generally, was an introduction from the policy of the Royal Exchange. In precise literal interpretation, the former two were not a mere amplification of the last. In "by means of fire," all *instrumentality* of heat, smoke and flame, in effecting or effectuating damage or destruction as an ultimate result, is included. "By fire" is fire as the direct and immediate *cause* of "damage or loss"—the *causa proxima* solely and absolutely. The language of the insurer, as between him and the insured, was construed by the courts as popular, not philological nor technical. In the speech of the people, the "kettle" boils even with those who know nothing of a metonymy, and so "damage or loss by fire," as a trade wording, would necessarily have implied all normal concomitants attendant upon destructive burning in a social state. In the common interest which binds society together, money loss by and through putting out a fire for the general safety as well as rescue in the particular case, is a part of the money loss by fire. The decision quoted extended the underwriter's general liability from the normal concomitants to an incidental occurrence, but the ability of the fire underwriter to except expressly, as a specific agreement, from theft loss in event of fire, was not in question.

Adjudications on the subject of the mutual insurance relations of mortgageor and mortgagee were harmonizing. Through an agent or broker the Manufacturers' Insurance Company wrote upon a mortgaged building in Baltimore. Policy required the usual notice to the company, and assent of the company in case of the assignment by the insured of his title and interest; and here the policy was assigned to the mortgagee, and the assignment was inserted upon the back of the policy, filling up a blank form, without further statement of the transfer, and so assigned the policy was renewed. Next by a deed, of the existence of which the insurance company was not informed, the mortgageor conveyed the equity of redemption of the premises to the mortgagee absolutely in fee. Loss occurring, and payment being refused, in a trial in the United States Circuit Court there was a verdict for the plaintiff. On motion for a new trial, the court, Cadwalader, J., held that on the trial the court properly instructed the jury that if the existence of the *policy* assignment was known



to the assurers by the visual juxtaposition to the policy, the act of renewal included the consent required by the policy; but this not affecting the mortgageor's equity of redemption, the transfer of the *property* to the mortgagee, so as to divest the mortgageor's interest, had the same effect as if the conveyance had been made to some third person other than the mortgagee, and with such conveyance the mortgageor's interest in the property ceased and determined, and without notice. (*Bilson vs. Ins. Co.*, 3 Phila., 547.)

With the cessation of marine insurance by the Girard, and renewed energy of management, its prospects rapidly improved. A tax of \$280.50 was paid on capital in 1858, and \$562 in 1859. Rate of dividend on capital stock was running at over 6 per cent. per annum. In the fall of 1858 this company coöperated to increase steam fire engines in the city, by offering to contribute \$100 in every case towards the building of one by each of the several fire extinguishing companies. The premium receipts of 1858 were \$50,201.52, and by the close of 1859 such income for the year was \$87,922.28. Vice-president Gillett prepared in 1859 a combined application chart and duplicate policy, to simplify, condense and dispense with the application, abstract and proposal blanks previously used. On the back of the policy there was an order for insurance, signed by the applicant and agent, naming amount insured, risk, location, and rate, with "plan of building." Fourteen interrogatories for answers by applicant were prescribed, and three by agent, viz.: For applicant:—

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|-------------------------|--|
| If <i>Building</i> :    | 1. Materials of construction, and whether walls are entire and run above roof.<br>(If insurance of merchandise contents solely, building to be also described as above.)<br>2. Location, with date of erection.<br>3. Distance of other buildings—occupations in and material of the nearest buildings.<br>4, 5. Height of the building (number of stories), occupation in and occupant of each story.<br>9, 10. Value; how warmed, how lighted.<br>13. Any prior damage by fire.<br>14. Mortgage, lien, or other incumbrance. |
| If <i>Merchandise</i> : | 6, 7. Average stock. "Is the building occupied for any other purpose?"   |
| General:                | 8. Present insurance, office, amount and rate.<br>11. "Have you fire companies near by?"<br>12. "Does any one lodge in the building during the night season?"  |

The three inquiries of the agent were as to his knowledge of the risk, and as to any or no other risk of company upon the proposed or adjoining property. Signatures of agent and applicant were affixed.

With the close of the year the Robert Morris project was abandoned, and the Consolidated was also discontinued. The Philadelphia Fire and Live Stock, by court change of title, became the Metropolitan Insurance Company of Philadelphia.

In 1859 the premiums received by the Enterprise were \$19,569.23—losses, none.

Opportunity to perpetuate a fire insurance office was now as favorable as the knowledge existing on the subject of fire insurance would admit of, and the signs were that future failures would be limited to recent corporations. Four Philadelphia fire insurance companies were authorized to do business in New

York, in 1859, by the New York State insurance department, viz., the American, the Commonwealth, the Franklin, and the Reliance Mutual; and these were the only insurance corporations of the city so authorized. Their statements under the requirements of the New York department, constituted the widest scope of exposition and evidence as to position yet attained, if yet deficient. There was a detail which enumerated a large portion of the particulars requisite to an adequate account. These showed the following items and totals:—

1859.

	American.	Common-wealth.	Franklin.	Reliance Mutual.
Capital, . . . . .	\$277,500 00	\$200,000 00	\$ 400,000 00	\$187,721 00
Assets, . . . . .	659,325 34	218,854 65	2,208,051 68	294,817 57
Perpetual deposit fund, . . . . .	115,399 51*	. . . . .	807,319 04*	. . . . .
Forty per cent. of premium on undetermined temporary risks, . . . . .	32,623 41	18,357 93	92,072 22	19,718 22
Total liabilities, . . . . .	152,228 60	23,248 93	953,743 43	21,353 22
Cash premiums received in the year, . . . . .	84,561 42	45,804 83	255,010 28	40,834 34
Interest, . . . . .	29,962 64	14,646 79	108,090 50	16,569 26
Total income, . . . . .	121,232 02	60,541 62	380,601 15	57,752 91
Losses paid, accruing in the year, . . . . .	8,242 58	20,067 04	48,749 90	4,901 35
Dividends paid on capital, . . . . .	33,534 00	11,152 00	129,181 00	10,504 00
Total disbursements, . . . . .	60,085 02	48,234 07	241,372 76	27,272 03
Fire insurance in force, . . . . .	11,055,453 00	4,570,600 00	65,000,000 00†	5,264,313 83
Number of agents, . . . . .	2	9	34	2

Of the 47 local insurance offices in existence January 1, 1860, 39 were issuing fire policies and 24 fire policies only. Of the latter, two for building risks were exclusively perpetual premium funds, and 22 were accepting, with more or less exclusion, the diversities of the different classes of fire hazard. Fourteen of the 22 were stock companies, and eight of these had cash capital as represented; and there were two mixed offices, one firemen's association, one premium note city mutual, and four rural mutuals—including in the last the Mutual, of Roxborough, incorporated in 1856. The Philadelphia Board of Fire Underwriters had six members, viz.: Two local fire offices, the American (George Abbot) and the Pennsylvania (Beaton Smith); three local fire, marine and inland offices, the Insurance Company of North America (Arthur G. Coffin); Insurance Company of the State of Pennsylvania (Henry D. Sherrerd); Delaware Mutual Safety Insurance Company (William Martin); one foreign office, the Liverpool and London Insurance Company (Richard S. Smith).

Thirty-three licensed non-State companies were also writing fire risks in the city at this date. The non-marine and inland were:—

## FIRE.

Ætna, of Hartford, . . . . .	Boswell & Wilson.
Arctic, of New York, . . . . .	Sabine & Duy.
Charter Oak, of Hartford, . . . . .	H. E. Rood.
City, of Hartford, . . . . .	William D. Sherrerd.

\* Five per cent. less than total fund—95 per cent. of perpetual premium deposit being liability to depositors on demand.

† On temporary risks, \$30,000,000; on perpetual risks, \$35,000,000.

Commonwealth, of New York, . . . . .	C. G. Imlay.
Continental, of New York, . . . . .	Holbrooke, Lewis & Co.
Germania, of New York, . . . . .	Sabine & Duy.
Goodhue, of New York, . . . . .	Jones & Sterling.
Hampden, of Springfield, . . . . .	H. E. Rood.
Hanover, of New York, . . . . .	Thomas J. Lancaster.
Home, of New York, . . . . .	William D. Sherrerd.
Humboldt, of New York, . . . . .	Sabine & Duy.
Hartford, of Hartford, } . . . . .	William D. Sherrerd.
Lamar, of New York, } . . . . .	
Manhattan, of New York, . . . . .	Boswell & Wilson.
Market Fire, of New York, . . . . .	William D. Sherrerd.
Mercantile, of New York, } . . . . .	Sabine & Duy.
Metropolitan, of New York, } . . . . .	
Merchants', of Hartford, . . . . .	Boswell & Wilson.
North American, of Hartford, . . . . .	Boswell & Wilson.
North American, of New York, . . . . .	William D. Sherrerd.
New World, of New York, . . . . .	R. O. Lowry.
Park, of New York, } . . . . .	C. G. Imlay.
Phenix, of Brooklyn, } . . . . .	
Phœnix, of Hartford, . . . . .	Sabine & Duy.
Security, of New York, } . . . . .	William D. Sherrerd.
Standard, of New York, } . . . . .	
Unity Fire, of London, } . . . . .	

## FIRE AND LIFE.

Liverpool and London, . . . . .	Richard S. Smith.
Northern Assurance Co. of Aberdeen and London, . .	William Getty.
Royal, . . . . .	George Wood.

From 1856 the fire loss had tended to minimize, the fire-detective police was recognized as efficient in suppressing incendiarism, the steam extinguishing engines were also effective, and the underwriter's protection thereby was now somewhat further enhanced by the following section of act of March 31, 1860:

SEC. 139. Every person, being the owner of any ship, boat or other vessel, or the owner, tenant or occupant of any house, outhouse, office, store, shop, warehouse, mill, distillery, brewery or manufactory, barn or stable, or any other building, who shall wilfully burn, or set fire thereto with intention to burn the same, with an intention thereby to defraud or prejudice any person or body politic or corporate, that hath underwritten or shall underwrite any policy of insurance thereon, or on any moneys, goods, wares or merchandize therein, or that shall be otherwise interested therein, shall be guilty of a misdemeanor, and, on conviction, be sentenced to pay a fine not exceeding one thousand dollars, and to undergo an imprisonment, by separate or solitary confinement at labor, not exceeding seven years.

About 40 per cent. of the fire insurances on Philadelphia risks written by non-State companies was now written by the Royal. The Royal's Pennsylvania premiums on which tax was paid in the year ended November 30, 1860, were \$106,413.73—including \$4,270.19 life premiums—indicating, approximately, nine millions of fire insurance in force; taxed Pennsylvania premiums of the Liverpool and London, the next on the list as to amount for the year, were \$27,179. (There had been a temporary decline in the premium receipts of this company, by reason of a controversy pending in England.) The premiums of the *Ætna's* agencies in the year were \$26,473, an increase of 68 per cent. over the previous year. The Unity followed with \$6,490 of premiums, and the Home, of New York, with \$5,591; then the Hartford with \$4,678. As yet the taxes paid on Pennsylvania premiums were chiefly for Philadelphia risks. These five offices had about two-thirds of the fire business of the city agencies, and the agencies were carrying one-fifth of the fire risks of the city outside of the



perpetuals, and their proportion was continually increasing. The Northern was rapidly pushed forward towards the second place on the agency list, and in the calendar year 1860 its Philadelphia premium receipts were \$28,064.70.

The growth of fire insurance followed the growth of the city, which, in the decade ended in 1860, had made much progress. By the United States census of 1860, buildings had increased 45 per cent. from 1850, against an increase of 39 per cent. in the population, and manufacturing production had doubled in the period. Total dwelling houses, or rather buildings in which persons dwelt, 89,632; number of manufacturing establishments, 6,298, working \$69,562,206 of raw material annually. Total value given of real and personal estate \$394,144,468—real \$242,668,947, personal \$151,475,521. Thirty-nine classes of manufacturing industries producing each over one million dollars per annum, and having together 3,132 establishments, were enumerated as follows:—

	Establish- ments.	Capital.	Value of production in 1860.
Clothing—men's and boys', . . . . .	344	\$4,249,775	\$9,962,800
Sugar refining, . . . . .	8	1,546,000	6,356,700
Cotton goods, . . . . .	93	3,929,700	6,172,437
Boots and shoes, . . . . .	715	1,914,975	5,474,587
Pork and beef packing, . . . . .	18	1,076,000	4,325,851
Woolen goods, . . . . .	31	1,278,300	3,390,776
Flour and meal, . . . . .	29	594,960	2,996,696
Carpets—ingrain, . . . . .	84	840,900	2,601,325
Calico printing, . . . . .	6	864,250	2,557,388
Machinery, steam engines, etc., . . . . .	62	1,757,800	2,466,096
Chemicals, . . . . .	25	2,000,500	2,412,854
Printing—books, . . . . .	42	2,191,500	2,377,400
Hosiery, shirts and drawers, . . . . .	97	856,460	2,003,665
Liquors—malt, . . . . .	65	1,884,500	1,910,525
Gas, . . . . .	3	3,956,173	1,837,500
Leather, . . . . .	47	895,250	1,795,710
—morocco, . . . . .	28	858,100	1,576,146
Printing—newspaper, . . . . .	31	700,300	1,577,100
Soap and candles, . . . . .	49	676,833	1,480,268
Furniture—cabinet, . . . . .	111	890,350	1,472,690
Stoves, . . . . .	28	1,253,300	1,430,765
Gas fixtures, lamps, chandeliers, etc., . . . . .	6	975,000	1,425,000
Bread, . . . . .	329	319,460	1,420,428
Locomotive engines, . . . . .	2	1,650,000	1,420,000
Jewelry, gold chains, etc., . . . . .	51	774,500	1,364,930
Clothing, shirts, collars, etc., . . . . .	79	570,250	1,355,764
Carpentering, . . . . .	152	421,650	1,267,120
Cigars, . . . . .	231	469,700	1,243,342
Bricks, . . . . .	50	1,215,500	1,233,416
Liquors—rectified, . . . . .	30	573,200	1,206,956
Silk fringes, trimmings, etc., . . . . .	27	708,700	1,169,845
Iron—bar, sheet, railroad, etc., . . . . .	6	570,000	1,155,250
Umbrellas and parasols, . . . . .	16	582,300	1,111,200
Hats, . . . . .	52	342,000	1,109,842
Printing—job, . . . . .	67	589,600	1,084,225
Paints, . . . . .	10	703,000	1,065,574
Carriages, . . . . .	50	577,800	1,027,271
Medicines, extracts, drugs, etc., . . . . .	40	579,800	1,015,650
Cotton yarn, . . . . .	18	671,800	1,007,103
Whole number—including the above, . . . . .	6,298	\$73,318,885	\$135,979,777

In the way of defining insurable interest in a building as distinct from collateral questions of title, the Supreme Court this year separated the title to the ground from the title to the building, the latter being, in the cause tried, in the relation of a personality; the insurance not being in a mutual company where the insured would *pledge his property* as such to secure the property of others. The policy contained this clause:—

If the interest in the property to be insured be a *leasehold* interest, or other interest not absolute, it must be so represented to the company, and expressed in the policy in writing, or otherwise the insurance will be void.

A. erected a frame building on a vacant lot of ground which he had leased for a term of years, and had the privilege of removing the building at the expiration of his term. He effected an insurance on the building without stating the peculiar nature of his interest in the property, notwithstanding the foregoing condition, which was understood by the insurers to be applicable to his ownership of the building.

Lowrie, C. J.: If this were a case of mutual insurance, whereby the insured becomes a member of the company, and pledges his property to secure that of others, there would be some reason for holding it to mean that a house insured as a house is real estate, and we suppose that the clause out of which this controversy arises was intended for such a case. But this was a common insurance, and we must presume that it was taken in the ordinary way, and justice does not require us to strain the defendants' language in their policy for their benefit. A house may be often personal property. (5 Pick., 478; 8 *Id.*, 283; 1 Hall, 41; 3 Casey, 291.) And so is machinery in a mill (8 Harris, 303); and so was the house insured here, and the insured was the absolute owner of it. The condition relied on does not require that he should give notice that he was not the owner of the land on which it stood, and we do not think that justice requires us to force this meaning into it. (*Hope Mutual Ins. Co. vs. Brolasky*, 11 Casey, 282.)

The capital stock of the Reliance Mutual was increased in 1860 from \$187,721 to \$214,700, by scrip conversions. By the mutual supplement to the act to incorporate the Reliance Insurance and Trust Company, it was provided that the "ascertained profits" for a year, after paying 6 per cent. on the capital stock, "shall be divided pro rata among the stockholders and the insured members"; . . . . "that is to say, to each stockholder a certificate stating the amount due him for such a proportion of the said remaining profits as the stock held by him may bear to the aggregate or collective amount of the stock paid in and premiums earned." The allotment of dividend to insured member was on the same basis. (No certificate for a less sum than \$25, nor for any fractional part of \$5 changed subsequently and respectively to \$10 and \$1.) By the other supplement approved February 24, 1845, five per cent. on the perpetual deposit as interest premium shared similarly in the division of profits. The certificates were "entitled to an interest or dividend not exceeding six per cent. per annum, to be paid out of the remaining profits, if any, of the years succeeding. . . . The certificates to be issued as aforesaid may at any time be received in payment of, or be converted into the capital stock of said company, under such rules and regulations as the directors thereof may from time to time make and establish. . . . When the amount of the capital stock, . . . together with the ascertained profits, after paying all losses and expenses, shall, in the aggregate, amount to the sum of three hundred thousand dollars, all the future profits of said company, after paying losses

and expenses, may be divided and paid in cash to the stockholders and insured members pro rata, . . . or the same may be applied to the purchase or redemption of the certificates issued by said company."

The scrip dividend declared for year ended December 31, 1859, was 15 per cent. On \$40,062.59 of "marked-off premiums or estimated premiums," \$6,009.00 were declared—*i. e.* 15 per cent. On the stock capital as it stood to participate, \$27,765.00 were declared. Scrip to the amount of \$65,836.50 had been issued to date, and \$59,894.00 converted into capital stock.

There was here a suggestion of organizing a company upon the basis of an earned-premium capital—that is, upon the basis of irredeemable scrip issues, bearing 6 or other per cent. interest, and ever accumulating, with the scrip-holders having exclusive fundamental authority over the company, that was never followed out.

In 1860 the total fire insurance loss in the city, as reported by "Fire Marshal" Blackburn, was \$288,517—*i. e.*, in a general way the policy sums applied to such a portion of total property loss in 308 fires burning, as estimated, a total value of \$362,232. The insurance loss was distributed among about 80 companies—local, foreign and other-State. With the extension of its agency business, the Girard paid \$52,226.87 for losses in 1860 in the city and out of it, receiving \$103,242.44 for premium, and paying as commission to agents \$9,549.23. Its funds were now producing about nine thousand dollars of interest per annum. The new Enterprise, chiefly local in its writing, had \$37,928.51 of receipts this year, premiums and interest, which were \$14,699.14 in excess of the disbursements. To the cash capital, which was \$104,100 January 1, the sum of \$11,000 was added in the year.

A litigation ended in 1860 which had grown out of an insurance by the Girard of a dwelling house and furniture in Crawford county, Pa., which took fire from the burning of a handworking carpenter shop converted into a steam planing shop. The shop was 25 feet from the dwelling. A four-horse steam engine had been put in to run the planer, and the exhaust steam was used to heat the shop. The location of neighboring buildings was properly given in the application, but no inquiry was made as to how such buildings were warmed and lighted. At the trial (Common Pleas, Crawford county,) the company maintained that the policy was vitiated, because nothing was stated about stoves in the carpenter shop. This was overruled. Company then contended that the policy was void, because the engine increased the risk. This, as a question of fact, being given to the jury, the jury decided that the risk was not thereby increased.

(The hazard was increased probably about 200 per cent. by the whole change, but a technical question of this character was a matter about which the jury had no information.)

In Error. Strong, J.: . . . . . The description given of the neighboring building was a shop for a carpenter, not much used. Was it, then, a fraudulent concealment, or a breach of the assured's covenants, that he did not state that the carpenter shop was heated, and what provision was made for warming it? . . . . . A representation that a carpenter's shop stood 25 feet from the insured premises, informed the insurers that



what is commonly understood by such a shop, what ordinarily constitutes it, and belongs to its use, was there. If there had been anything extraordinary in the manner of its being used or heated, anything which increased the risk of fire, it might have been his duty to communicate it specifically. But what is usual, what, in the language of the court below, is "customary" in such buildings, was communicated by the representation of the existence of the shop. In general, the use even of the building insured, and how it is heated, need not be represented, except in reply to inquiries. (Phillips on Insurance, 636, and cases there cited.) That no more specific representations were contemplated by the parties, is apparent from the interrogatories addressed by the company to the applicant for the policy. He was asked how the building proposed for insurance was warmed, and how lighted, but he was not asked how neighboring buildings were warmed and lighted, even though they entered into the estimate of the risk. The same particularity of description was not required in regard to the latter as in regard to the former. . . . And if the jury found that the use of stoves in such a building is an ordinary and customary use, and consequently that the plaintiff, by not having specifically mentioned that they were used in this adjacent shop, was guilty of no fraudulent concealment, or breach of his warranty, then the risk undertaken by the defendants embraced the hazard consequent upon the presence and use of stoves there. That hazard the plaintiff might not increase, and still avail himself of his policy. The court submitted to the jury to find whether he had increased it, whether the substitution of a steam engine for the stoves enhanced the risk; instructing them that if it did, the plaintiff could not recover, and if it did not, he could. In this we see nothing erroneous. Whether a risk has been increased or not, is a question for the jury, not the court. (*Grant vs. Howard Fire Ins. Co.*, 5 Hill, 10.) The representation, even though it be made a warranty, does not bind the assured that there shall be no alteration, however immaterial to the risk, in the thing insured, or in its use. Although a strict and literal compliance with the terms of warranty be necessary, still the warranty is construed according to its ordinary meaning. (*Shaw vs. Roberts*, 6 Ad. & Ellis, 75.) While the risk is running, the assured can make no substantial alteration which enhances the liability of the insurer. But what is a substantial alteration? In fire insurance it would seem to be, mainly, an increase of the risk. (*Stetson vs. Ins. Co.*, 4 Mass., 330.) It was one of the conditions of the policy on which this suit was brought, that any alterations or repairs made in or about the premises (insured) must be made at the risk of the insured; not that they should necessarily avoid the contract, but that the assured should assume the hazard of their increasing the liability of the insurer. . . .

Judgment affirmed. (1 Wright, 293.)

While it was proper to consider a "carpenter shop," in its insurance relations, as denoting and comprehending all the appurtenances embraced in the use and purpose of such an industrial building, and the use of apparatus for warming the space occupied by the workmen as needful, yet the *mechanical* distinction between hand planing and steam planing had made a radical *insurance* distinction, in which the former did not comprehend the latter, though the latter comprehended the former as not enhancing hazard. In other words, while the greater included the less, the less could not include the greater.

While, as a fact for the jury, a carpenter shop might become a planing mill and remain a carpenter shop, so a wharf at Camden, N. J., was in the port of Philadelphia, Pa.; that is as a territorial, not navigation, question, the policy involved in the contention here being for fire insurance—*i. e.* "terrestrial," and not for marine or navigation insurance. David S. Stetson and others, trading as D. S. Stetson & Co., *vs.* the Liverpool and London Insurance Company, was an action at Nisi Prius, Strong, J., on a policy insuring \$15,000 against loss by fire, during the term of one month, on the ship *Diamond State*, lying, when the insurance was procured, at Mead street wharf, on the western or Philadelphia side of the Delaware. The policy had been made out for the vessel as in the "port of Philadelphia." The *Diamond State* being then removed to Camden, while lying at a wharf there burned, fifteen days after the date of the policy. The plaintiffs called merchants to establish that the "port

of Philadelphia" was understood to include Camden, or rather all the water of the Delaware between Gloucester and Richmond. It was also stated that importers in Philadelphia would procure permission from the custom-house to unload at Camden articles admitted free. The decision was in favor of the plaintiffs, with a verdict for \$11,457.80. Whatever might be the extent of the "port of Philadelphia," as the location of a fire insurance risk (not a marine risk against fire) an artificial, not a natural, harbor was meant in the policy, the city of Philadelphia not being the Delaware river.

Among the reminiscences attending the operations of the State Mutual of Harrisburg, in Philadelphia was the legal sequence of the burning of a brick dwelling house in Duke street, which had been insured in this Harrisburg office, and as the result the insured's assignee learned that notice of occurrence of loss is not statement of particulars of loss, and he was defeated on a claim to which, so far as appears in the case, he was honestly, if not technically, entitled. (*R. W. Desilver, for use, etc., vs. the State Mutual Insurance Company. Error to the District Court of Philadelphia county. 2 Wright, 130.*)

Condition in policy required that all persons insured and sustaining loss by fire shall forthwith give notice to the company, and as soon thereafter as possible deliver a particular account of such loss, signed with their own hands and verified by oath or affirmation.\* According to his testimony the following notification was given by the plaintiff's book-keeper:—

"I went to the premises in Richmond on the 21st of February, 1852. This was one or two days after the fire. I came right down, and went on the same day to the office of the insurance company, and saw Mr. Coggsall (a member of the firm who were the Philadelphia agents of the company), and told him of the fire. He said he was already aware of it. Mr. Hemphill [the assignee] accompanied me to Richmond and to the insurance office. Mr. Hemphill asked Mr. Coggsall if he would send a person up to see the premises. I don't distinctly recollect his answer; but it was either that he had sent, or that he would send. Mr. Hemphill asked him if he wished any further notice, or whether that would be sufficient. He said no, that no further notice was necessary. That was distinctly said. I think Mr. Hemphill asked him the second time as to notice, and he gave the same reply again."

\* Of the seventeen conditions of insurance appended to a policy of the State Mutual, issued November 13, 1853, (No. 334,) and thereby part of it, insuring merchandise at Frederiek, Md., "as described in Application and Survey No. 334, which is hereby declared to be a part of this Policy, and a warranty on the part of the assured," the eleventh of such conditions was in the following terms:—

II. Persons sustaining loss or damage by fire, shall forthwith give notice thereof in writing to the company or their agent. And as soon after as possible, they shall deliver a true copy of the written part of their policy, and as particular an account of their loss and damage as the nature of the case will admit, rendering to this company or their agent a schedule or list of articles destroyed or damaged, stating item by item, and article by article, together with the actual cash value of each article or item, respectively, at the time of such loss, signed with their own hands; which said account shall set forth the whole cash value of the subject insured; the loss and damage claimed thereon, who are the owners thereof; that at the time of and immediately before the fire, the subject insured was in, upon, or at the place or location specified in the written part of this policy, and covered thereby, and that the same was either destroyed, damaged, or lost (as the case may be) in consequence of fire. And they shall accompany the same with their oath or affirmation, declaring the said account to be true and just; showing also whether any and what other insurances have been made on the same property; what was the whole cash value of the subject insured, at the time of such loss; what was their interest therein; in what general manner, (as to trade, manufactory, merchandise, or otherwise,) the building insured or containing the subject insured, and the several parts thereof, were occupied at the time of the loss, and who were the occupants of such building; and when and how the fire originated, so far as they know or believe, or have any information. They shall also produce and leave with the company or their agent, a certificate under the hand and seal of a magistrate nearest the place of the fire, and not concerned in the loss, as a creditor or otherwise, or not related to the insured or sufferers, stating that he has personally examined the circumstances attending the fire, loss or damage alleged; that he is acquainted with the character and circumstances of the insured or claimant, and that he verily believes that he, she, or they, have, by misfortune, and without fraud or evil practice, sustained loss and damage on the subject insured, to the amount which the magistrate, as aforesaid, shall



Thompson, J.: Statement was not furnished by the plaintiff, but it was claimed to have been waived by the agent of the company. I think it is perfectly apparent from the evidence, that this assumption was without foundation. The object of the party who gave the notice of the fire, in the present instance, was simply to let the company know that it had occurred. This was done orally, and in the ordinary way of communicating such an occurrence. . . . A waiver must be intentional, and that must be shown clearly and satisfactorily, either by acts or declarations. Nothing was said about the manner of the occurrence of the fire, the extent of the loss, the required statement on oath of the insured, the superadded certificate of the magistrate or notary, so as to lay any foundation for the supposition that this statement was dispensed with and waived. The facts to be contained in this statement are called *proofs* of loss in the condition, not notice. Upon them the company often adjudge and pay losses;—always, indeed, unless there be reason to doubt their accuracy or suspicion of fraud in producing the loss. To waive them would be to dispense with all forms of proof, and a payment of the loss on such footing would be without vouchers, simply on the say-so of the insured. No company could stand long on such practice. Such a waiver cannot be pretended here. . . .

Judgment affirmed.

The agent said, "No further notice is necessary." This was literally true. Whether it was a moral obligation on the agent to add, "Now make out your proofs of loss," depended upon his estimation as to whether the claim was an honest one or not; and such action on the part of the agent was imperative under No. VIII of the terms and conditions of the policy of the Philadelphia Board of Fire Underwriters, wherein the particular account of loss and damage after notice of fire was necessary on the part of the loss claimant, "if required by the company."

For the nine years ended March 25, 1861, the records of the Contribution-ship showed of buildings insured by the perpetual policies of this office, 207 inhabited at night taking fire, and 121 uninhabited at night taking fire, against respectively 91 and 80 for the nine years 1843-52, with the year of the great fire of July, 1850, excluded. For the period terminated in 1861, the average annual percentage of loss on sums insured on the ignited inhabited buildings was 7.04, against 3.55 per cent. for the previous nine-year enumeration, and on the non-inhabited buildings 16.83 per cent., against the previous 9.95 per cent. So, of the two periods, irrespective of any question of the rate of ignition, the

certify. Where merchandise or other personal property is partially damaged, the insured shall forthwith cause it to be put in as good order as the nature of the case will admit, assorting and arranging the various articles according to their kinds; and shall cause a list or inventory of the whole to be made, naming the quantity and cost of each kind, and the estimated amount of damage which each article has sustained. The damage shall then be ascertained by the examination and appraisal of each article by two disinterested appraisers, under oath, one chosen by the company and one by the insured, and in case of their disagreement as to the amount of damage upon any article, they shall nominate a third person to act as umpire between them; and the award in writing, under the hands of such appraisers, or any two of them, shall be binding and conclusive as to the amount of damage upon both parties to this policy; and if this company or their agent shall require such an examination or appraisal, it shall be so submitted, otherwise this company will not be liable for any loss or damage under this policy; and upon the neglect or refusal of the assured to nominate an appraiser and submit thereto, in accordance with the conditions of this article of agreement, then all claim or claims for loss or damage, by virtue of this policy, to cease and be of no force or effect.

And whenever required in writing, the insured, or person claiming, shall produce and exhibit the books of account, bills of purchase, and other vouchers of the insured, to the insurers or their agent, at the office of this company, or at the office of such agent, in support of the claim, and leave them with this company, or their agent, a sufficient length of time to permit extracts and copies thereof to be made. And also exhibit to any person or persons named by this company or their agent, and permit to be examined by them, any property damaged on which any loss is claimed. And shall also, if required, submit to an examination under oath, by the agent or attorney of this company, and answer all questions touching his, her, or their knowledge of anything relating to such loss or damage, and subscribe and make oath to such examination, the same being reduced to writing. And until such proofs, examinations, declarations, certificates, and exhibitions are produced, and permitted by the claimant, when required as above, the loss shall not be payable.

Any fraud or false swearing shall cause a forfeiture of all claims on the insurers, and shall be a full bar to all remedies against this company under the within policy.



rate of combustion was shown as approximately doubling in the later period. It has already been referred to, that the building wholly devoted to mercantile purposes is inherently a different order of combustibility from the building wholly or partly occupied as a dwelling, apart from the influence of the immediate presence of persons to extinguish incipient fires.

At the close of 1860 the assets of the Fire Association had accumulated to \$700,400.26, and the board of trustees declared in the ensuing January a dividend of \$640 to each of the forty-seven fire companies in service composing the Association; such dividend being according to the 30 per cent. limit of profit division instituted by the supplementary act of April 22, 1856. The "permanent capital stock" of \$200,000 to be established by such supplement had now reached about \$150,000. As between fire companies belonging and not belonging to the Association, the Philadelphia fire department was about equally divided. Early in 1858, twenty-eight companies outside of the Association began a movement proposing another firemen's insurance company, arguing that "the Fire Association of Philadelphia, established for the benefit of the whole department, has by the imposition of an exorbitant fee virtually excluded companies now connected with it"; and further, "the Fire Association does not make appropriations or dividends to companies outside of their organization, notwithstanding they aid as much in the extinguishment of fires and protection of property as those who are members thereof," etc. This project did not secure any concession from the Fire Association, and not being abandoned, legislation was secured, and the United Firemen's Insurance Company of Philadelphia was incorporated by a special act approved April 2, 1860. William A. Rolin, of the Schuylkill Hose Company, Conrad B. Andress, of the Northern Liberty Hose Company, and twenty-eight other representatives of hose, engine, and hook and ladder companies, were the original corporators. Different from the Fire Association, a guarantee stock capital of \$100,000 was authorized, increasable to \$300,000; one dollar per share of stock (ten thousand shares) was to be paid in on subscription, but the company was competent to begin business upon subscription of 2,500 shares—risks restricted to the city of Philadelphia. Each fire company in the city, with the Association for the Relief of Disabled Firemen, was entitled to subscribe for one hundred shares of the stock—stock not so subscribed for at the expiration of six months from the passage of the act could be subscribed for by individual firemen. The company did not begin business until April 1, 1861, one year after the incorporation. Immediately preceding the organization of the United Firemen's, the Fire Association made a proposition to the city councils to undertake the extinguishment of the city fires for \$60,000 per annum, which was rejected. C. B. Andress was elected president of the new company, William A. Rolin, treasurer, William H. Fagen, secretary. The United Firemen's added another to the insurance building marks of the city, as notification to the firemen within its organization, by adopting a metal plate or badge having, with the letters U. F. gilded, the figure of a steam fire engine in bass-relief. Being firemen, the officers and directors had, to guide them in the matter of surveys, their experience as to the conditions and circumstances under which flames

spread through a building and among contents. The first policy (perpetual) was issued April 2, to Samuel P. Fearon, who had been chief engineer of the reorganized volunteer fire department from 1856 to 1860. This risk was \$1,000 upon a three-story brick dwelling with two-story brick kitchen, 210 Vaughan street, below Walnut—deposit \$19. Annexed are citations from the terms of the perpetual policy:—

IV. The sum insured on one building, and the contiguous buildings on the same lot, may be insured in one policy; but there shall not be insured in one policy a greater number of buildings than are erected on a single lot.

IX. The company will not make good the damage done to wall paper to a greater extent than the cost of the new paper, at the rate of not more than fifty cents the piece, and the expense of putting the same up without a border; nor will the company be liable for fresco or other fancy paintings on walls, for damage to glass of the dimensions of three square feet or more in the windows of insured buildings, unless allowed in the policy by specific agreement.

X. Mortgagees and others to whom any policy shall have been transferred as a collateral security, cannot withdraw the deposit money on such policy.

XI. Damage caused by explosions or lightning, and the building insured not damaged by fire, not to be paid for.

XII. The following risks being considered more hazardous than others, buildings intended to be occupied by persons carrying on any of the undermentioned trades or business, or in which any large quantities of the undermentioned goods are deposited, will be subjected to an extra premium on that account. No policy, therefore, will be construed to extend to such a risk, unless liberty be given for the purpose, and expressed thereon.

## SECTION ONE.

Academies and schoolhouses,	Lumber, of all kinds,
Apothecaries and druggists,	Naval stores and ship chandlery,
China, glass and queensware,	Oil and paints,
Corn and grain,	Prints, pictures and looking-glasses,
Flax and hemp in bales,	Saltpetre and sulphur.
Groceries and liquors,	

## SECTION TWO.

Bookbinders,	Printers,
Boat-builders,	Type-founders,
Coopers,	Turners,
Chair makers, Windsor,	Taverns, oyster cellars and eating houses.

## SECTION THREE.

Aqua-fortis and vitriol in quantities,	Flax and hemp, loose,
Brewers and maltsters,	Gunpowder,
Bakers,	Hay, straw and provender,
Carpenters,	Mills and manufactories, of any kind,
Cabinet and musical instrument makers,	Rope-makers,
Chandlers, soap and tallow,	Steam engines,
Chemists,	Sugar refineries,
Coach and carriage builders and wheelwrights,	Stables, public or private,
Distillers,	Tallow, melters of,
	Varnish and oil, boilers of.

The temporary policy was a selection, as to conditions, from the varying phraseology at this time in vogue, and adapted to operations in a limited territory.\* So, with a small capital secured, this venture was started for whatever might be the result ahead, on the eve of the war for the maintenance of the union of the States.

\* As yet, express stipulation as to the right of the insured to terminate temporary policy, with return of part of premium paid, had not appeared, so far as is known, in any form of Philadelphia policy. In New York this wording was introduced about 1860: "This insurance may be terminated at any time at the request of the insured, in which case the company shall retain only the customary short rates for the time the policy has been in force."

With few agencies in the Southern States, the resources of the Philadelphia fire insurance companies were but little affected by the cutting off of the disaffected territory from the field of their operations, and, unlike life and marine underwriting, there was no special war risk for the fire underwriters to act upon, though the strife of the time might be thought to be in some measure provocative of incendiarism beyond as well as within the general exception as to loss by "civil commotion, riot, or any military or usurped power."

William A. Steel, secretary *pro tem.* of the Franklin, dying in April, James W. McAllister was elected to the position; and the office of secretary of the Pennsylvania Fire being also made vacant by the death of Beaton Smith, May 20, the vacancy was filled by the selection of William G. Crowell. Beaton Smith, as an underwriter, had shown judicious discrimination within the limitations of his time; as an executive official he was decisive in action. The two new secretaries had gained their places as promotions for meritorious services in subordinate positions, and with them were the preparation and qualification for greater service.

The Supreme Court of the State now affirmed a judgment given at Nisi Prius, in a suit involving the application of a policy to a mill burning August 19, 1858. It was a question on notice as to *pro rata* insurance of associated specific policies, not merely as to amount of total additional insurance. Policy No. 13,714, executed by the Pennsylvania Fire Insurance Company, December 27, 1852, insured \$10,000 on the mill property, distributed as follows: five-tenths on building, three-tenths on machinery, two-tenths on stock. December 2, 1853, an insurance for the same amount was taken out in the Royal, with this specific apportionment of the total sum: Building one-tenth, machinery seven-tenths, stock two-tenths. Notice of such additional insurance, and divisions thereof, was given to the Pennsylvania, December 14, following, in accordance with the annexed condition of its policy:—

VI. All persons having property insured by this company must, with reasonable diligence, give notice of all additional insurances made in their behalf on the same, whether by this company or by other insurers; and of all changes that may be made in such additional insurances; and cause such notice to be endorsed on their policies; and each company shall be liable to the payment only of a ratable proportion of any loss or damage which may be sustained; and unless such notice is given, the insured will not be entitled to recover in case of loss.

The policy of the Pennsylvania expired in 1853, that of the Royal in 1854. January 5, 1857, the policy of the Pennsylvania was renewed or revived by endorsement for a total insurance of \$5,000, divided, not as the insurance had originally been, but in the proportions of one-tenth on building, seven-tenths on machinery, and two-tenths on stock, which were the proportions of the expired policy of the Royal. At the renewal, January 5, 1858, Secretary Smith inquiring of Thomas B. Simpson (son of the owner) whether there were not \$10,000 insured in the Royal, the answer was in the affirmative; the questioned party not stating that he referred to a new insurance for \$10,000 which had been effected in the Royal, December, 1856, making a different division of the sum insured among the building, machinery and stock. The existence of



the Royal's policy issued in 1856, and continued, was not discovered by the Pennsylvania company until after the fire.

There was no dispute as to the loss by the fire; total of policy sums in four companies, all specific, was \$22,500—loss was appraised at \$12,570.68. The distributions and contributions under the apportionment of insurance, as one-tenth on building, seven-tenths on machinery, and two-tenths on stock, would have resulted as follows:—

	Building.	Machinery.	Stock.	Total.
Amounts insured, . . . .	\$2,250 00	\$15,750 00	\$4,500 00	\$22,500 00
Damage, . . . . .	3,892 59	4,452 50	4,225 68	12,570 68
Amounts payable, . . . .	2,250 00	4,452 52	4,225 68	10,928 20
<hr/>				
<i>Pennsylvania</i> , . . . . .	500 00	3,500 00	1,000 00	5,000 00
Damage, . . . . .	500 00	989 45	939 04	2,428 49

Under such apportionment, the loss payable by the Royal would have been \$4,856.98; it was represented that under the plaintiff's construction it was \$1,110.13, and amount payable by the Pennsylvania \$3,152.32; total loss so payable, in four companies, \$8,990.95.

One point presented by the defendant was:—

III. That if the contract with defendants was a renewal, then it carried with it the notice of additional insurance only in the mode in which it appeared as endorsed on the policy—a renewal being a repetition of that which had previously existed. A renewal of a contract of insurance carries the original contract in terms.

At the trial the judge charged the jury that:—

Under the proved and admitted facts of this case, I regard it as entirely a question for the court. . . . . When [the policy was] renewed the last time, the agent of the plaintiff was asked by the secretary of the defendants, if there were not \$10,000 insured in the Royal, to which he replied that there were. Insurance in the Royal was at that time endorsed upon the policy, and, also, a statement of the mode of its distribution. Possibly the secretary of the defendants may have referred to that, but whether he did or not, the defendants were entitled, under the provisions of the contract, to notice of any material change which had been made in that insurance. A different distribution of the sum insured was a very material change. It directly affected the extent of the defendants' liability. No change, indeed, was made in the aggregate of the sums insured, but in the amount insured upon the different subjects there was a thorough alteration. Of this alteration Mr. Simpson gave no notice, yet such notice was the very thing which the sixth condition of the defendants' policy stipulated he should give before they would be liable to pay. He was to give notice not only of additional insurance, but of any changes in such insurance. . . . . There was, therefore, no performance of the condition upon which the liability of the defendants was agreed to depend. Nor do I perceive any evidence to submit to you from which you could infer that performance of the condition was waived. The only thing relied upon as evidence of a waiver is what I have already stated. . . . . Of course, there was no obligation to inquire; nothing to make inquiry a duty. Waiver is generally a thing of intention. There can be no intention to waive where there is no knowledge that anything can be waived, no knowledge of any duty to be performed. The act of the secretary was receiving an imperfect performance without objection. . . . .

Under these instructions there were a verdict and judgment in favor of defendant, whereupon the plaintiff sued out a writ of error.

*Simpson vs. The Pennsylvania Fire Insurance Company. Per Curiam:* . . . . . It is not necessary that we should discuss the question raised, for it is very properly presented and decided in the charge given to the jury at Nisi Prius. Judgment affirmed. (2 Wright, 250.)

In the two last cited adjudications there were, in each case, two performances required of the insured in respect to notification; it was evident to the

notified party that in the one case the second requirement had not been complied with,—in the other case, inferentially, the second requirement was fulfilled.

In some degree the 2 per cent. special tax or charge on the premiums of non-State fire insurance companies, imposed by the act of May 7, 1857, deterred, up to May 9, 1861, additions to the legally represented companies. Its chief effect was to increase the number of unlicensed agencies. The constitutional validity of the act was questioned, its requirements generally ignored, and, in instances, it was deemed as well to evade the 3 per cent. payable into the State treasury as the extra 2 per cent. payable to the treasurer of the Philadelphia Association for the Relief of Disabled Firemen. To the list of authorized companies before given for 1860, the additions were now, the Fulton, of New York, and the Lorillard, of New York, T. J. Lancaster; the Home, of New Haven, the Hope, of New York, the Providence-Washington, of Providence, R.I., Sabine & Duy; and the Lynchburg, of Virginia, William D. Sherrerd. The withdrawals were in greater number, consisting of the companies represented by C. G. Imlay, and also the Goodhue and the North American, of New York, and the City and the Charter Oak, of Hartford. The established agencies were, however, largely increasing their business, and in the year ended November 30, 1861, the Philadelphia fire agencies paid into the State treasury 3 per cent. tax on \$321,745 of fire premiums—fully double the amount of premiums paid for in 1859.

As intimated, the act of May 7, 1857, had ended, either as a burden or an apprehension.

July 10, 1857, the agent of the Royal, with James H. Montgomery and Joshua P. Ash, executed and delivered a bond in the penal sum of one thousand dollars to the treasurer of the Philadelphia Association for the Relief of Disabled Firemen, as required by the act of May 7, of that year; but the enormity of this bit of socialistic legislation being gradually discerned, compliance therewith ceased, and suit was instituted in the District Court to enforce the bond, and judgment was given for the plaintiffs for \$1,000.

Sharswood, P. J.: . . . . . The legislature had laid certain restraints upon the establishment of foreign insurance agencies in this State, as they had a right to do. They required that they should pay a certain sum to the commonwealth, and give bond to pay a certain percentage on their premiums to the plaintiffs, before they could take out a license to carry on their business. . . . . Every policy the defendant made under the law and the license was accompanied by an implied understanding with the commonwealth to pay two per cent. of the premiums received to the Philadelphia Association for Relief of Disabled Firemen. It may be an unwise thing for the legislature to appropriate money to religious, literary or charitable associations before it comes into the treasury, but who can doubt their power to do so on general principles, as well as under the precedents of the legislation of more than half a century?

Error to the District Court. Lowrie, C. J.: . . . . . We notice that the legislature does not call this burden upon the agencies of foreign insurance companies a tax, and we think it cannot properly be so called. Nor is it called a condition on which such agencies are to be allowed; and it is not an addition, for it is totally independent of the license, and by a different act of assembly; the license is complete without the law imposing this burden. It is simply the creation of a relation or duty that had before no existence, and not the regulation of an existing one. Such legislation is manifestly very extraordinary. . . . .

And, finally, if this imposition may be properly called a tax, then we seriously deny the authority of the legislature to impose upon the courts the duties of the tax collectors,



and especially so when the tax is for private account, and not for the public treasury. When they do so, this court, or any other, may reject the function, whether it comes up by action merely on the duty imposed, or on a bond given to secure the duty. . . . Considering, then, that this imposition is so extraordinary in its character, of such very doubtful constitutional validity, so dangerous in its tendency as a precedent, and so unusual in the form of its enforcement, we must most respectfully decline, for the judicial department of the government, the enforcement of the bond given to secure its payment.

Judgment reversed, and judgment for the defendant below, with costs, and record remitted. (3 Wright, 73.)

With the war the utilizing of petroleum came, or rather the great expansion of its use then began. This rock or earth oil kept in vials had, in previous years, been sold by the apothecaries of the city as a lotion under the name of Seneca oil. In its crude state it had also been used to a very limited extent as a lubricant. Its distillation succeeded in the United States the distillation of cannel coal and coal tar for the production of illuminants. A combination of various hydro-carbons, it varied but little, as a combination, from camphene in its carbon and hydrogen constituents, but it had physical differences which made it an inflammability of quite another character. The oil wells of Pennsylvania were yielding profusely. In 1859 only 325 barrels of petroleum were shipped over the western division of the Philadelphia and Erie railroad; in 1861 the number of barrels so shipped was 134,937. The Oil Creek Valley product was a dark greenish-brown liquid, its components being distinguished from one another by their density and boiling points—the combination being vaporous to a high degree at ordinary temperatures. With a lighted taper brought near to an open vessel containing the crude oil as sold to the refiners (or to the oil as flowing from its deposits and floating upon the surface of streams), the emitted vapor blazing would ignite the liquid, which burned, first with a bluish flame, and then, as the oil became heated, with a yellow tinge. The ignitive qualities were due to a volatile, highly hydrogenous liquid, of low boiling point, called indifferently either naphtha or benzine—terms which had been applied to other associations of carbon and hydrogen. The first stage in refining was the separation of this naphtha from the rest of the compound; two other liquid distillates were, one an illuminating, the other a lubricating oil; the residuum was paraffine, pitch, a heavy grease, etc. The naphtha was dangerous as an adulterant of the illuminating oil, but was useful as solvent for india-rubber. Petroleum afforded materials for roofing, cement, varnishes, etc., and supplied a substitute for turpentine in the deficiency of such oil in the non-seceding States caused by the war. It was as useful, as hazardous fire-wise; and its fire risk in the household, the storehouse, on the wharf and under a separated shed, and as the principal in production or an adjunct in process in manufacturing, or as otherwise used, was a jeopardy as perplexing to the fire insurer as army mortality to the life insurer, or captures and seizures by privateers to the marine insurer. To the average underwriting intellect of the time there were, however, two ideas in prominent association: 1, danger imminent, but deferred; 2, five per cent. As the deferring diminished, the per centum ascended. Tendencies of panics and alarms to make rates were, however, continuing to decrease. Sometimes the sword as seen above the head of Damocles was suspended by a cord, not always by a hair.



For latter part of the year 1861 the fire marshal reported "benzine" as having been the cause of "at least a score of fires" in the city. The year had, however, with its war alarms, somewhat less fire loss and less number of fires than the preceding one. The United Firemen's had no loss in the year. But with disturbed trade and industrial production, the fire premium receipts of most of the local companies fell off. Such reduction resulted rather from the exigencies of the period than from the exercise of added precautions.

With the aggregate fire premium receipts of the local companies lessened about 18 per cent. in 1861, as compared with 1860, the companies continuing on daily chances found their small business disappearing, and cost out of all proportion to income, even with a small fraction of payment on their obligations. The City, dropping out of its miscellaneous ventures, had become a fire insurance attempt, and the attempt ceased in the beginning of 1862, without the formality of an assignment. Of like, but rather more hurried departure, was the going out of the Metropolitan, fire and live stock, at the same time. January 1, 1861, the Metropolitan had asset figures to the amount of \$62,501.75, of which \$60,000 were "capital." There was a realization upon the assets to the extent of \$63.28 by the sale of the office furniture at 402 Walnut street, seized for rent.

Fire underwriters of different cities were now engaged in rating the divisions (as understood) of the petroleum hazard according to the conditions shown in the trade in the article, and its manufacture and use. A resolution was adopted by the Philadelphia board as to insurability at 1, 1½, 5 per cent., etc., of the storage risk, and non-insurability, in the following terms:—

*Resolved*, That where benzine, benzole, naphtha, or other explosive products of coal oil are stored in quantities less than three barrels; also, where refined coal oil is kept in quantities not exceeding twenty barrels, the rate of premium to be charged shall be the same as on specially hazardous risks. When more than twenty barrels are stored in one building, the rate of premium thereon shall be one and one-half per cent. per annum, unless satisfactory evidence be given, by certificate of a competent chemist, that the oil so stored is entirely free from benzine, benzole, naphtha, or other explosive gases or matter, in which case the rate shall be that now charged for extra hazardous risks. When crude coal oil, petroleum, rock, or earth oils shall be stored in the built-up portions of the city, the risk shall be considered uninsurable. When stored in a building entirely removed from other buildings, and properly fitted for its reception by thorough ventilation and other precautions which may be deemed necessary, or when stored on wharves or in sheds thereon, the rate of premium shall not be less than five per cent. per annum.

Such discriminations rested on the theory of the greater inflammability of crude oil as compared with the refined oil and the separated naphtha.

Benzine as an explosive in a manufacturing process was shown by a disaster occurring February 27, 1862, at a varnish manufactory in the city. Benzine being substituted for oil of turpentine, and boiled with the resins, a comparatively small, confined apartment became filled with the vapor arising from the quantity of five barrels of the liquid in the kettle, the vapor being augmented by the high temperature. Coming in contact with the furnace fire, this vapor ignited, and the consequent explosion shattered the building to pieces, and killed one person and injured others. The flames of the burning ruin were soon extinguished. In the previous November, vapor from such varnish on haversacks igniting, caused a fire in a store on Market street.

The association of general and special policies continued to be a perplexity in the settlement of losses occurring under such combined insurance. Whatever might be the diversity in phraseology, the proposition was, in all its forms, in effect, as follows:—

This company shall be liable only for such ratable proportion of loss or damage happening to the subject insured as the amount insured by this company shall bear to the whole amount insured thereon.

The Philadelphia application of such clause has been shown in the adjustment of a loss occurring on a soap and candle factory, April 28, 1857.

If, in a conjunction of this character,—

A. insures on Merchandise and Fixtures, . . . . .	\$300
B. insures on Merchandise, . . . . .	300

there should be a loss on merchandise alone, it was accepted without any dispute that “the whole amount insured” on merchandise was \$600. Should the loss be on merchandise and fixtures, A. would insure \$300 on *both* merchandise and fixtures, and consequently not \$300 on *either* nor *each*. But against such construction was the fact, not to be rejected logically, that the loss is as the insurance, and the insurance is not as the loss; in other words, the measure of insurance is the measure of indemnification. Taking such a conjunction as this:—

A. insures Merchandise, . . . . .	\$300	Fixtures, . . . . .	\$100
B. insures Merchandise and Fixtures, . . . . .	400		

should there be a loss on merchandise alone, there would be, unquestionably, an insurance of \$700 on merchandise; and a loss on fixtures alone, there would be an insurance of \$500 on fixtures. Holding firmly to the principle that loss could not vary the insurance, Vice-president Thomas C. Hand, of the Delaware Mutual, had elucidated, January 2, 1858, the usage of the Philadelphia offices by applying, in such a case, \$700 to merchandise and \$500 to fixtures, with loss on merchandise \$387 and on fixtures \$234; so charging B. with four-sevenths of the loss on merchandise and four-fifths of the loss on fixtures, and limiting loss of A. on fixtures to \$46.80. Objectors tried to make much of the incidental circumstance that such adjustment left \$8.34 of the total *property* loss unpaid. But the question to be settled was: What was the *insured* loss? \* Mr. Hand's exposition was induced by a request to review a statement of adjustment computed on the principle that “loss fixes subdivisions [divisions] of the sum assured” in general policies co-insuring with special policies.

The *pro rata* clause as a rule of computation applied to associated policies, but partly concurrent, was of the character of the division of algebra entitled Indeterminate Analysis; that is to say, each proposed question admitted of an infinite number of answers, unless conditions could be introduced to limit the number. If  $a + b = 36$ , the value of  $a$  or  $b$  is any integer or compound fraction less than 36, or any decimal. So, by the *pro rata* clause—*merely* as such—B.

\* The Philadelphia usage, as formulated by D. A. Heald, general agent and adjuster of the Home Insurance Company of New York, was introduced at the close of 1860 at Albany, N.Y., in the adjustment of a loss in which twenty companies were involved; all the companies interested concurred in the apportionment. Mr. Heald's formula, afterwards known as the Albany or Heald rule, was supported by its author with arguments mainly of a legal nature.

in the second example insures on merchandise \$400, less amount insured on fixtures, and on fixtures \$400, less amount insured on merchandise; and thereby the question was indeterminate.

Out of the condition that as *after* paying four-sevenths of loss on merchandise, B. could not pay four-fifths of the loss on fixtures, the question arose as to whether \$178.86 (400 — 221.14) should contribute with the \$100 of A. to pay loss on fixtures, as thereby the total loss of \$621 would be paid by policy sums amounting together to \$700.

In the District Court, Judge Stroud, trying the cause of *Kohn vs. the Commonwealth Insurance Company*, had to make an application of the *pro rata* clause. Vogt, a piano maker, having a fire loss, had insured different classes of articles contained in his factory under six policies, viz.:—

		"Stock and Materials," "Tools," and "Pianos left for repair."
A.		
Spring Garden Insurance Company, . . . . .	\$3,000	
Jefferson Insurance Company, . . . . .	3,000	
Philadelphia Insurance Company, . . . . .	2,000	
B.		"Stock and Materials."
Royal Insurance Company, . . . . .	\$5,500	
Commonwealth Insurance Company, . . . . .	4,000	
C.		"Tools."
Commonwealth Insurance Company, . . . . .	\$500	
Losses.		
(a) "Stock and Materials," . . . . .	\$8,411 84	
(b) "Tools," . . . . .	845 37	
(c) "Pianos left for repair," . . . . .	125 00	
Total loss, . . . . .	\$9,382 21	
Total insurance applying wholly or partly to "Stock and Materials," (a)	\$17,500	
Total insurance applying wholly or partly to "Tools," (b)	8,500	
Total insurance applying partly to "Pianos left for repair," (c)	8,000	

The opinion of the court was: "That in the adjustment of general and special policies, like those now under consideration, perfect arithmetical accuracy is not attainable under the rule contained in the policies. . . . Where there are both general and special insurances, as in the case under consideration, a liberal construction of the rule—a construction which looks to the spirit and proper object of every rule on the subject—must be brought and applied. Any other procedure would render insurance an enigma or a snare, and would stir up and keep up perpetual litigation."

As all "construction" in arithmetic or mathematics must be actual, and cannot be "liberal," the non-arithmetical character of the rule was declared, and it was "liberally construed" as being of the following form—the calculation employed removing all need of any express wording thereof:—

This company shall be liable for loss or damage in only such ratable proportion of the sum insured by this policy as the loss or damage happening to the subject insured shall bear to the whole amount insured thereon.

Should there be two policies respectively insuring \$3,000 and \$4,000, with loss \$1,000, it made no difference in the result whether the former paid three-sevenths of \$1,000 or one-seventh of \$3,000; but the adjustment, as made, proceeded in arbitrary succession as to the respective subjects of loss, whereby,



after the first application, successive *remainders* united in contribution to the loss, instead of "the whole amount insured thereon." So, *first* as to the loss on "stock and materials": As 17,500 : 8411.84 :: 5,500 : 2643.72, or Royal's payment; and, similarly, Commonwealth's payment was \$1922.70 $\frac{2}{3}$ ; Spring Garden's, \$1442.03; Jefferson's, \$1442.03; Philadelphia's, \$961.35 $\frac{1}{3}$ ;—total, \$8411.84. This, therefore, allowed for "pianos left for repair" taken *second* in the succession, \$3,000 — \$1442.03, or \$1557.97 for the Spring Garden to contribute, etc. Reaching "tools" as the *third* in succession, there were left to contribute: Spring Garden \$1510.10, Jefferson \$1510.10, Philadelphia \$1007.40, with the \$500 special insurance of the Commonwealth. The result was the following allotments of payment:—

Royal Ins. Co., . . . . .	2643.72 (a)	=	\$2643.72
Commonwealth, . . . . .	1922.70 $\frac{2}{3}$ (a) + 93.31 $\frac{2}{3}$ (b)	=	2016.02 $\frac{1}{2}$
Spring Garden, . . . . .	1442.03 (a) + 282.02 (b) + 46.87 $\frac{1}{2}$ (c)	=	1770.92 $\frac{1}{2}$
Jefferson, . . . . .	1442.03 (a) + 282.02 (b) + 46.87 $\frac{1}{2}$ (c)	=	1770.92 $\frac{1}{2}$
Philadelphia, . . . . .	961.35 $\frac{1}{3}$ (a) + 188.01 $\frac{1}{3}$ (b) + 31.25 (c)	=	1180.61 $\frac{2}{3}$
Total loss, \$9382.21			

Thereby the last three companies insuring *generally* on "stock and materials," paid the *same* proportion of insurance as the first two companies insuring *pecially*, although under the conditions of *loss* the *whole* of the insurance of the first two companies applied to "stock and materials," while only *part* of the insurance of the last three companies so applied. The whole process was, with one exception, substantially the Philadelphia underwriters' usage (now called Albany rule) in another form; for, under the conditions, the same result attended the working of like *proportions* of quantities as of the *quantities* themselves. As  $\frac{8411.84}{17,500.00} \times 5500.00 = \frac{5500.00}{17,500.00} \times 8411.84$ , etc., the judicial adjustment gave precisely the same result as the Albany rule in respect to "stock and materials"; and as to "pianos left for repair," there was the same product, whether \$3,000 were multiplied by  $\frac{125}{8000}$ , or \$125 were multiplied by  $\frac{1557.97}{4154.59}$  or by  $\frac{3000}{8000}$ . The sole departure from the application of the Albany rule in result was the effect on the Commonwealth's special insurance on "tools"; the apportionment of the loss on "tools" (b) by the Albany rule would have been as follows:—

Spring Garden, . . . . .	\$298.36 $\frac{1}{2}$
Jefferson, . . . . .	298.36 $\frac{1}{2}$
Philadelphia, . . . . .	198.91
Commonwealth, . . . . .	49.73
<hr/>	
\$845.37	

The judicial arrangement operated to increase loss under special policy on "tools" (with gain in equity), but not to increase under special policies on "stock and materials" treated as one subject. Manifestly the "enigma" was rather palliated than either eradicated or solved, but the application of *remainders* of insurance avoided residue of unpaid loss.

Stroud, J.: . . . . . The most that ought to be expected from the data which have been agreed upon, is an approximation . . . . . ; and the mode which has been adopted in the present case comes nearer to an equitable adjustment of the losses among the different insurers, than any other which has been suggested or acted upon by underwriters, so far as my information extends. . . . .

This was, or so became, a question between or among insurers themselves; as between the insured and judgment creditor, the District Court having adjudged in another case that *any* amount due to a fire loss claimant is attachable, such decision was affirmed by the Supreme Court. It was therefore held that an unadjusted or unliquidated claim for a loss upon a policy of insurance is subject to attachment in the hands of the insurance company, *i. e.* puts the attaching creditor in the place of the insured.

Thompson, J.: . . . . . There are abundant authorities to prove that the law does not class such claims with those which are merely for the recovery of damages, and that the action of debt is sustainable on such a policy as the one we have here. . . . (The Girard F. & M. Ins. Co., garnishees, *vs.* Field, Merritt & Co. 9 Wright, 129.)

As between insurer and insured, in *Franklin Insurance Company vs. Updegraff*, which sustained various points as facts for the determination of the jury, it was held that while it was for the jury to determine whether merchandise insured was destroyed in the "building" described in the policy, yet if a building contain several storerooms, and there be any uncertainty as to whether all the rooms were intended, such uncertainty is fatal to the insurers, for the language of the policy being their own, it is to be construed most strongly against them. (7 Wright, 350.)

The eleventh condition of the policy of the Philadelphia board\* was held not to avoid the policy in the case of a sheriff's officer merely going to the premises and giving notice of a levy; he must take actual possession of the property—"the phrases 'levied on' or 'taken into possession or custody' have the same meaning. The latter defines the former. . . . Certainly the language of the policy admits of such a construction."—Strong, J. (*Commonwealth Ins. Co. vs. Berger & Butz.* 6 Wright, 285.)

No Philadelphia company appeared among the losers by the flames at busy, fiery, manufacturing Troy, May 10, 1862. This augmented repetition of the conflagrations of 1854 and 1820 burned through 671 buildings, and involved an insurance loss of about \$2,000 per building—approximately one-half of the property loss. Most of the agency companies represented in Philadelphia participated in the indemnification. This fire was alike testimony as to the extension of the agency method, one hundred companies sharing in the loss, and the contingencies of exclusively local insurance. The largest loss was paid by the Liverpool and London; the next highest loss fell to the Troy Mutual. A fire of like extent occurring in Philadelphia at this time would have shown probably one-fourth of the mercantile and manufacturing risks covered by non-local companies.

The American branch of the Northern, of Aberdeen and London—Getty & Liebing, agents—had extended its writings at a cost, fire-wise, which brought the business in the United States to a close; and William Getty took the agency of the Niagara, of New York, now entering the city, and of the Continental, of New York, and Arctic, of New York, reëntering. The Continental (joint stock) issued the mixed mutual policies making return of premiums above

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\* "The insurance by this policy shall cease at and from the time that the property hereby insured shall be levied on, or taken into possession or custody under any proceeding in law or equity."

fire cost and expense cost. It was with the Equitable Mutual, of Philadelphia, dealing in fire risks, as it had been with the corporation as the Equitable Life, *i. e.* cost of management distributed among an insufficient body of hazards; and the Equitable stopped writing more risks, and either cancelled those outstanding or allowed them to run out.

The United States act of July 1, 1862, going into effect October 1, imposing one per cent. tax on gross fire and marine premium, 25 cents stamp duty on fire or marine policy, 5 cents on any appraisalment of value or damages, and 2 cents for every bank check, or order for the payment of any sum of money over \$20, the agents of non-local companies held a meeting, September 22, to consider the question of directly charging their customers with such taxes. Elsewhere it had been resolved by companies in convention, that agents should be required to charge their customers, without any reduction in rate to evade such charges; but the Philadelphia agents' meeting was not capable of reaching any conclusion, as one agent could not so charge without all the others so doing, and the agencies would have to agree in this respect with the local companies, and the local companies did nothing.

Without any theorizing or formal regulation, the taxes were simply so much added to the loading of the net fire premium, whether the existence of such net premium was known to the insurer or not. The seller does not *make* the price, neither does the buyer. While the Federal congress was considering, as one part of the proposed insurance taxation, the question of the effect of 10 cents per \$100 insured, Samuel S. Moon, secretary of the Commonwealth Fire, of Philadelphia, and A. F. Hastings, president of the North American, of Hartford, made statements before the finance committee of the United States senate, which materially enlightened the committee. Fortunately for Mr. Hastings, the State insurance department of New York had been the means for the collection of such data as afforded opportunity for an intelligent consideration and presentation of some insurance points. Mr. Hastings showed, in effect, that eight Hartford companies insuring, in 1860, \$317,969,542, earned 7 cents per \$100 insured, or (nearly) 3 cents less than the tax. Thus, as subsequently written out:—

Taxation, . . . . .	\$318,000 00
Balance of earnings on \$318,000,000 insurance, . . . . .	224,548 00
Deficiency of companies, . . . . .	\$93,452 00

Mr. Moon illustrated from the standpoint of Philadelphia perpetual fire insurance: The average  $2\frac{1}{2}$  per cent. deposit at 6 per cent. interest, gave an annual premium of 15 cents. Taking 10 cents therefrom for taxes, left 5 cents for losses and expenses, per annum; by which the current outgo would encroach upon the premium deposit at about the rate of  $2\frac{1}{2}$  per cent. per annum, and 95 per cent. of the deposit was withdrawable at the option of the depositing policyholder. A taxation involving such reconstruction of the insurance premium it was not in the interest of the government to approve—taxation, to afford revenue, must not destroy resources. The principle of taxing amount insured was correct, but such rate was equal to 10 per cent. of



one per cent. premium, and as the average annual premium was now about 80 cents, it would have been equivalent to a current premium tax of about  $12\frac{1}{2}$  per cent. As has been stated, one per cent. premium tax was adopted, which was  $2\frac{1}{2}$  mills per \$100 on brick dwelling house insured by annual policy, and one cent annually per \$100 insured on the minimum special hazard; insured capital employed in the industries having the greatest fire hazard, paying the highest rates of taxation.

To make the Federal taxes a direct charge to the insured was a purpose not consummated, and the result of such proposal was a charge for the policy stamp merely, and that more or less omitted. Such taxes were, however, as much a payment by the insured as a secretary's salary;—"premiums pay losses and expenses," and the new taxation was simply an addition to the expenses.

With regaining of temporarily decreased contribution of fire premium, and the city showing diminishing fire losses, there was much surprise to the public, caused by a majority of the directors of the Commonwealth Insurance Company deciding, December 15, 1862, to close the business of the corporation, returning unearned premiums to the holders of temporary policies, and the deposits under perpetual policies. One member of the directory, Thomas S. Stewart, protested against such action, but about three-fourths of the stock was held by the president, Dr. David Jayne, and his choice in the matter was decisive. Such discontinuance was recognized as a public loss, while discontinuance of so-called fire and fire-marine insurance companies had been rather cause for public gratulation. By the market standard the assets were of the value of about \$220,000, interest received in 1861 \$9,874.75, capital \$200,000, liabilities \$30,000. No dividend had been declared in 1861 or in 1862. The presiding officer's apprehensions, combined with the public agitations of the time, restricted the business, and restriction was a bar to remuneration. Cancellation of all contracts was ordered, such termination of all responsibility being preferred to reinsurance—the latter involving the estate in a liability, as being a recourse in event of failure of the reinsurers.\* The liquidation closed with the return of 92 per cent. of the capital stock to the shareholders. Secretary Samuel S. Moon became associated in the publication of the *American Exchange and Review*.

The agency of the Unity Fire Association of London had also now terminated, making the second withdrawal of a foreign company in the year. The Unity retired wholly from business in September, transferring its outstanding risks to the Liverpool and London, returning to the shareholders a portion of the capital they had paid in. Agencies of other-State fire companies were continuing to increase.

After three years and eight months' operations, the Mutual Fire Insurance Company of Philadelphia had, at the close of 1862, \$373,900 of insurances in force, partly perpetual risks; its assets, mainly premium notes, amounted to \$29,138.78; fire losses paid in 1862, \$221.87; expenses, \$704.94.

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\* President Charles N. Bancker, of the Franklin, when called upon to report to the New York department an estimate of the "amount required to safely reinsure all the outstanding risks," hesitated at the word "safely," and accordingly, the officers, in their sworn return, very properly stated that they were "unable to make any estimate" of the kind.

Another litigation in respect to the application of the clause adjudicated in Commonwealth Insurance Company *vs.* Berger & Butz, was terminated with a corresponding result. In the former case the policy was not avoided because the levy was unconsummated, in the present case because it was "wrongful." December 23, 1856, an omnibus establishment in West Philadelphia burned while the property was in possession of a watchman appointed by the sheriff. September 12, preceding, Buchanan & Stevens, former owners, who had sold it to William T. Mills, the plaintiff in the case, brought suit against him in the District Court. October 21, 1856, Mills had renewed an insurance with the Philadelphia Fire and Life Insurance Company for one year, covering the frame stable and stock generally. The policy contained the condition as to cessation of insurance, "from the time the property hereby insured shall be levied upon," etc. On the 28th of the same month, Buchanan & Stevens recovered judgment against Mills for \$26,268.50. November 8, following, the property was by bill of sale transferred by William T. Mills to his son David W. Mills, for the consideration of \$40,000. David W. was acting as clerk for his father at \$10 per week, and no money appeared as having passed at the execution of the bill of sale, but possession was taken by David W. Mills under the sale. November 10, Buchanan & Stevens sued out an execution against William T. Mills. On the 15th of same month the policy was assigned to David W. Mills. On the morning of December 23 the property burned, as has been stated. The watchman had been sent to the place about a week before the fire.

Sharswood, J., instructed the jury that, as the execution was against the father after a sale and delivery of possession to the son, the levy made under it was a wrongful levy; and that if the sale was *bonâ fide*, and the levy consequently wrongful, it should not be regarded as a breach of the covenant in the policy. But if the sale was not *bonâ fide*, if it left the property in the father, and the son acquired none, but the transaction was intended to hinder and delay the creditors, then the levy would be such a one as the creditors had a right to make, such a one as was contemplated in the policy, and such a one as would avoid it.

Verdict and judgment were for the plaintiff.

In Error. *Per Curiam*: . . . . . Properly speaking, a levy "under" any process is a levy in pursuance of the authority given by it, and an execution against one man never gives authority to levy on the goods of another. The levy in this case was not, therefore, properly "under" any process. And we discover no valid reason for extending this provision to the case of a wrongful levy. . . . .

Judgment affirmed. (8 Wright, 241.)

Fire loss was continuing in the city at the low ratio which followed the inflammable first five years of the sixth decade of the century. Avoiding special hazards, the Enterprise Fire Insurance Company incurred loss at the rate of about 4 cents per \$100 insured in 1862. Fire Marshal\* Blackburn, for the six years ended June 1, 1863, reported 2,064 fires, affecting 3,618 properties, and involving loss to the amount of \$2,184,730, of which amount 67½ per cent., or \$1,476,845, were indemnified by insurance; average number of fires per annum 344—average property loss per fire \$1,058. Assuming 60 per cent. of the properties fire-attacked to have been insured, the average insured loss for the insured properties would have been \$680.

\* Such was the title generally given to the chief of the Fire Detective Police. The office of fire marshal was created by an ordinance of April 20, 1864, and Dr. Blackburn was the first appointee.

	Buildings.	Personal Estate.
Loss, . . . . .	\$740,557	\$1,444,173
Insurance, . . . . .	468,897	1,007,948

For the six-year period a property loss was thus shown of \$364,121 per annum, and an insured loss of \$246,141 per annum, occurring in an area where, approximately, four hundred million dollars of combustible values were aggregated, distributed among about ninety thousand dwellings or inhabited buildings, ten thousand mercantile houses, seven thousand manufactories, and twenty thousand buildings and other structures appropriated to miscellaneous purposes—one fire outbreak per annum to each one hundred and seventy buildings, and one fire outbreak per annum to each sixteen hundred inhabitants, in a period of which more than one-third was war time,\* and in the war time the petroleum flames were beginning.

The properties attacked by fire in the six years were as follows:—

Almshouse, . . . . .	1	Flour mills, . . . . .	6	Rag shops, . . . . .	5
Ammunition works, . .	3	Forwarding warehouses, .	4	Rag warehouses, . . .	3
Arsenals, . . . . .	3	Foundries, . . . . .	25	Railroad cars, . . . .	5
Artists' studios, . . .	2	Glass works, . . . . .	3	Recruiting rendezvous, .	4
Asylum, . . . . .	1	Granaries, . . . . .	3	Restaurants, . . . . .	9
Bakeries, . . . . .	19	Gymnasiums, . . . . .	2	Rigging lofts, . . . . .	2
Barge, . . . . .	1	Halls of associations, .	4	Rolling mills, . . . . .	9
Bark shed, . . . . .	1	Hay presses, . . . . .	5	Roofing-composition	
Barns, . . . . .	71	Hay scales, . . . . .	2	works, . . . . .	9
Billiard rooms, . . . .	3	Hospitals, . . . . .	3	Ropewalks, . . . . .	5
Boarding-houses, . . .	10	Hotels, . . . . .	52	Rosin oil works, . . . .	4
Boat sheds, . . . . .	7	Hot-houses, . . . . .	9	Row boats, . . . . .	4
Bone-boiling works, . .	4	Houses of fire apparatus, .	6	Sailing vessels, . . . .	9
Bone-grinding mill, . .	1	Ice-houses, . . . . .	12	Sail lofts, . . . . .	2
Breweries, . . . . .	10	Laboratories, . . . . .	17	Saw mills, . . . . .	10
Brick-kiln sheds, . . .	16	Laundries, . . . . .	2	School-houses, . . . . .	9
Bridges, . . . . .	2	Lime boat, . . . . .	1	Sewing-machine manu-	
Camphene establish-		Lime sheds, . . . . .	2	factory, . . . . .	1
ments, . . . . .	4	Lumber yards, . . . . .	16	Shot works, . . . . .	2
Canal boats, . . . . .	5	Marble works, . . . . .	2	Slaughter-houses, . . .	6
Cartridge manufacto-		Market-houses, . . . . .	3	Smoke-houses, . . . . .	16
ries, . . . . .	5	Mast sheds, . . . . .	2	Spice mills, . . . . .	7
Children's homes, . . .	3	Match manufactories, .	9	Stables, . . . . .	246
Christmas tree, . . . .	1	Meat-curing establish-		Steamboats, . . . . .	7
Churches, . . . . .	17	ments, . . . . .	3	Stores, . . . . .	370
Circus, . . . . .	1	Military barracks, . . .	2	Sugar refinery, . . . . .	1
Club houses, . . . . .	2	Miscellaneous, . . . . .	686	Tanneries, . . . . .	2
Coal sheds, . . . . .	10	Offices, . . . . .	32	Tenant houses, . . . . .	18
Coffee-roasting estab-		Packing-box manufac-		Tenpin alleys, . . . . .	3
lishments, . . . . .	3	tories, . . . . .	2	Theatres, . . . . .	5
Coffin warehouses, . .	4	Paint works, . . . . .	3	Toll-house, . . . . .	1
Colleges, . . . . .	3	Paper warehouses, . . .	3	Tool houses, . . . . .	6
Corpse, . . . . .	1	Penitentiary, . . . . .	1	Unfinished buildings, .	14
Cotton warehouses, . .	5	Petroleum oil refineries, .	20	Unoccupied buildings, .	59
Counting-houses, . . .	8	Photograph galleries, .	4	Upholsteries, . . . . .	5
Dead-house, . . . . .	1	Pickling establishments, .	3	Varnish works, . . . . .	4
Depots, . . . . .	7	Planing mills, . . . . .	8	Vinegar manufactories, .	3
Distilleries, . . . . .	6	Plaster mill, . . . . .	1	Waste shops, . . . . .	5
Drug mills, . . . . .	2	Police station-house, . .	1	Watch boxes, . . . . .	3
Dry docks, . . . . .	2	Potteries, . . . . .	3	Wharves, . . . . .	4
Drying kilns, . . . . .	3	Preserving establish-		Woods, . . . . .	6
Dye-houses, . . . . .	13	ment, . . . . .	1	Wood yards, . . . . .	4
Dwellings, . . . . .	1,040	Printing establishments, .	14	Work shops, . . . . .	195
Factories, . . . . .	245	Public buildings, . . . .	7		
Fire-arms manufacto-		Pyrotechnic manufacto-		Total, . . . . .	3,618
ries, . . . . .	2	ries, . . . . .	7		

\* In New York, from the 13th to the 18th of July, 1863, the value of about \$500,000 was destroyed by fire during the anti-conscription riots.



Under the title Miscellaneous, were included shanties, outbuildings, bath houses, sheds, corn cribs, hay barracks, pig pens, chicken houses, grain stacks, hay-ricks, straw heaps, corn shocks, fodder stacks, fences, trellises, shrubbery, trees, wagon loads of hay or straw or grain passing along the highways, or standing in the streets or under shedding, vehicles, furniture, beds, wearing apparel, window curtains, clothing on persons, awnings, crates, cotton bales, barrels, hay bales, lumber piles, ash boxes, chimney-boards, clothes-horses, fire-screens, clothes-baskets.

The fire department was now equipped with 27 steam fire engines, 25 hand engines, 34 hose companies, and 4 hook and ladder companies.

In statement of income for taxation by the Federal government, the internal revenue office allowed as deduction from such income, profits expended in restoring loss by fire, *i. e.*, uninsured property used in business and producing profits being destroyed by fire, it could be restored at the expense of the profits without the profits so appropriated being subject to tax; if insured, the difference, if any, between insurance received and amount expended in restoration would be allowed.

Despite of the prevailing small fire loss ratio, another local company was unable to continue, and while the agency list was extending, the Philadelphia list was further diminished by the withdrawal of the Exchange in October.\* The Enterprise slowly branching out from the local field, increased its cash capital to \$200,000, and was authorized to do business in New York. It had six agents at the close of 1863, and \$5,224,036 of fire risks in force—48 per cent. perpetual. The American (two agents), with a mean amount of \$16,715,681 of risks in force in 1863—38 per cent. perpetual—had in the year fire loss at the rate of 11.3 cents per \$100 insured; the Franklin (twelve agents), with the mean of \$58,210,167 in force in the year—65 per cent. perpetual—had fire loss at the rate of 11.8 cents per \$100 insured. Risks in force of the Mutual, of Philadelphia, increased to \$564,450 in the year, and the Mutual had no losses in 1863. The North American Fire Insurance Company of New York, which had withdrawn from the city, returned this year.

Early in 1864 the Fire Insurance Company of the County of Philadelphia, having secured the requisite legislative authority (act of March 2, 1863, repealing the office restriction to north of Vine street), removed from the former district of the Northern Liberties, where it had remained thirty-one years, to the insurance quarter of the city. Total assets of this company,

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\* A case in the District Court, 1865, (*Franz vs. Morgan*), elucidated the position of the Exchange.

Hare, J.: The mortgage on which this action was brought was one of a number given by different persons to indemnify the Exchange Insurance Company against loss in course of their business. When certain losses occurred which the company had not funds to pay, the directors agreed to receive 25 per cent. of the face of the mortgages and to surrender them. The defendant was among the number who did not pay the 25 per cent. and receive back their mortgages. . . . The measure of his liability, therefore, is the ratio between the whole debt of the company and the sum total of the mortgages, without deducting the payments made on one side or the securities surrendered on the other, which would make the amount to which the plaintiff is entitled \$2,587, instead of \$3,922, as found by the jury. It was argued that the assignee of a bond and mortgage given to secure future advances, or as an indemnity against liabilities which have not yet accrued, can only recover the amount due at the time when the assignment is made. . . . As the law of 1715 stood, it was to aid the assignee, not to deprive him of any right which he possessed before its passage. The act was not meant to cover liabilities which might become due before suit could be brought. The right of suit is necessarily lost to the assignor, and if it did not vest in the assignee, the assignment would operate as a bar, and defeat the title it was meant to transfer.

Judgment is therefore entered for the plaintiff on the point reserved for the sum of \$2,781. (6 Phila., 8.)

January 1, were \$147,570.56; total assets of the Spring Garden were \$400,069.55. In the accumulative time now at hand, the fire companies were showing great differences in the ratio of asset gains; in the six years just ended the asset growth of the American had been 96 per cent. In the more evenly advancing Pennsylvania Fire, doing exclusively a "home" business, the asset growth in this six-year period was 19 per cent. As a whole, there was much good fire insurance upbuilding against the contingencies of the future.

April 16, books of subscription were opened at 308 Walnut street, up stairs, to the capital stock of the Home Insurance Company of Philadelphia, under an act of February 16, 1860. The Home began with a cash capital of \$100,000; president James Brown, vice-president Charles A. Duy, secretary Thomas Neilson.

William Neal and Johannes Watson, two stockholders of the Manufacturers', asking for an injunction against the company, an affidavit of William Neal was printed, charging that the letters patent had been obtained by untrue certificates of subscription to the stock, and that "some of the directors of said company, nearly a year ago, who had insurances in said company, withdrew them from the same on the ground that said company would be unable to pay any losses," etc. There was no noteworthy evidence given as to the financial position of the concern, excepting that the possible cash capital of \$29,000 existing a few years earlier was disappearing, and that the stock notes were the company's chief recourse in any exigency.

In the summer of 1864 there was a resuscitation of the Equitable Mutual as the Equitable—Henry L. Elder, president, as previously, S. Henry Kennedy, vice-president, William Settle, Jr., secretary. It was a new project, to be worked up, if possible, by Vice-president Kennedy. The initial movement began August 1, with a capital stated at \$250,000. The Equitable proposed to try the "risk of navigation and transportation as well as fire."

There were at the close of 1864, in the city, agencies of more than fifty authorized non-State fire insurance companies. For the whole State the 3 per cent. tax paid by the agencies for year ended November 30, was on \$1,010,611 of premiums—about 70 per cent. of which was as yet fire premiums. Again the flames were renewing their fiercer force,—the period of minimum fire loss had ended, and the total reported for Philadelphia in 1864 was \$999,249, upon which loss there was an insurance to the amount of \$546,277. The agencies were involved in large proportion in the losses upon manufacturing and mercantile risks.

A decision was now made by the Supreme Court of the State adverse to the proposition that a general policy constitutes a double insurance with each case of associated specific insurance. (George B. Sloat to use of Henry Croskey *vs.* the Royal Insurance Company.) A brick planing mill, situated in the rear of Beach street, above Shackamaxon, was burned August 20, 1859. On this property the following insurances had been effected, and the policies were in force at the occurrence of the fire:—

	Total amount of insurance.	Building, machinery, shafting, belting, tools, and stock.	Shafting and belting only.	Tools only.	Building only.	Machinery, tools, shafting, belting, lathes, and drills.	Stock only.
Philadelphia Fire and Life, . . .	\$2,500	\$2,500	. . .	. . .	. . .	. . .	. . .
Equitable Mutual, . . . . .	2,000	. . .	. . .	. . .	. . .	\$2,000	. . .
Royal, . . . . .	2,000	. . .	. . .	. . .	. . .	1,000	\$1,000
" . . . . .	3,000	. . .	. . .	. . .	\$2,000	3,000	. . .
Hope Mutual, . . . . .	2,500	. . .	. . .	. . .	1,000	* 1,500	. . .
Spring Garden, . . . . .	2,500	. . .	. . .	. . .	1,000	† 1,500	. . .
Exchange, . . . . .	1,500	. . .	\$93.75	\$93.75	750	562.50	. . .
Quaker City, . . . . .	5,000	. . .	. . .	. . .	2,500	2,500	. . .
	\$23,000	\$2,500	\$93.75	\$93.75	\$7,250	\$12,062.50	\$1,000

\* Second and third stories.

† Lathes, drills and stock.

Royal Insurance Company, policy for \$5,000 was issued January 20, 1855; last renewal, January 20, 1859.

Royal Insurance Company, policy for \$2,000 was issued March 2, 1858; last renewal, March 2, 1859.

Philadelphia Fire and Life Insurance Company, policy was issued March 23, 1859.

Loss on mill building, . . . . . \$ 6,100 74  
 " machinery, shafting, belting, tools, etc., . . . . . 15,624 00  
 " stock, . . . . . 4,160 00

\$25,884 74

Each of the policies of the Royal, and that of the Philadelphia Fire and Life, contained the condition of notice, etc., of "other insurance," and ratable proportion of payment of loss or damage. The following memorandum was made on each of the policies of the Royal:—

Other insurance permitted without notice to this company until required.

In the adjustment of the loss, the Royal claimed that the general insurance of the Philadelphia Fire and Life should contribute in full to each of the specific insurances on the three classes of property respectively covered by the Royal's policies. In accordance therewith payment on the building of \$1,251.43, was made, without prejudice to the claim for any further sum, to which the insured might be entitled, against the company for loss on building by any other method of adjustment which should be determined judicially to be correct. The apportionment of insurance losses, upon the principle stated, was as follows:—

	On building.	Machinery, tools, shafting, belting, lathes, and drills.	Stock.	Lathes, drills, planing and sawing machines.	Shafting and belting.	Tools.	Total amount payable by each company.
Philadelphia Fire and Life, . .	\$1,564.30	\$ 935.70	. . .	. . .	. . .	. .	\$2,500.00
Equitable Mutual, . . . . .	. . .	2,000.00	. . .	. . .	. . .	. .	2,000.00
Royal, . . . . .	1,251.43	4,000.00	\$1,000	. . .	. . .	. .	6,251.43
Hope Mutual, . . . . .	625.71	427.41	. . .	. . .	. . .	. .	1,053.12
Spring Garden, . . . . .	625.71	1,500.00	. . .	. . .	. . .	. .	2,125.71
Exchange, . . . . .	469.28	. . .	. . .	\$308.31	\$29.26	\$9.15	816.00
Quaker City, . . . . .	1,564.30	2,500.00	. . .	. . .	. . .	. .	4,064.30
	\$6,100.73	\$11,363.11	\$1,000	\$308.31	\$29.26	\$9.15	\$18,810.56



Such apportionment left unexhausted \$748.57 of the Royal's insurance on building. It was stated for the opinion of the judge, on the case coming up before the Nisi Prius court, that—

If the policy of the Philadelphia Fire and Life Insurance Company *does not contribute to the loss on building*, then the ratable proportion of the policy of the Royal Insurance Company on building will be \$1,682.96, being \$431.53 less than the sum received by the plaintiff from the company for that item. If the court shall be of the opinion that the adjustment on the principle of contribution by the Philadelphia Fire and Life Insurance Company, under which the above payments were made by the Royal Insurance Company, is correct, then judgment shall be entered for the defendants; otherwise, in favor of the plaintiff to use for such sum not exceeding \$431.53 (with interest, to be computed in the ordinary manner,) as the court shall be of opinion would have been payable on a correct adjustment of the loss between the several policies.

The court directed judgment to be entered for the defendant company, whereupon the plaintiff took a certificate of error.

Read, J.: . . . . . The case of the Howard Insurance Company of New York *vs.* Scribner (5 Hill, 298,) is a distinct authority that this is not a case of double insurance. It was decided twenty-one years ago, by the Supreme Court of New York, then the highest judicial tribunal of the State. . . . . I cannot find that this decision has ever been impugned or denied by any judicial tribunal in the State of New York, and it is to be remarked that it is an affirmance of a judgment of the Superior Court of the city of New York. The first policy was divided, \$1,000 on fixtures and utensils and \$3,000 on stock. The second policy of the Ætna Company was for \$5,000, on the *fixtures and stock as one parcel*. Both policies contained a clause as to the recovery of only a *pro rata* amount, similar to the clause in the present case to warrant contribution. "We want," said the court, "two other separate policies, or one insuring separate sums on each. The assured, however, took only one policy, insuring an entire sum on one parcel. The subject was, therefore, different. In the first it was separate—in the second compound; and such a difference may as well be extended to fifty as to only two subjects. The several subjects are found to be substantially different when an effort is made to effect contribution. The counsel for both parties agree that, in order to do so, the \$5,000 must be divided into two parts—one being applied to the fixtures, and the other to the stock. It is not denied that the division must be entirely arbitrary; and the different methods proposed by the parties best accord with their respective interests. Neither has cited any case where such a thing has been done, nor mentioned any principle by which we should be authorized thus to modify the contests of the parties." .

In the case before us there is no over-insurance—all the policies, if paid, will not pay the loss sustained by the assured; a calculation, therefore, which will cut down the payments must be based on erroneous principles. Upon the principle adopted by the defendant, it is the same as if there were three policies of \$2,500 each, \$7,500, instead of one policy for \$2,000, which clearly cannot be the law, as this is a mode adopted by the insurance companies to reduce their own liability without any foundation but their simple arbitrary will.

Under these circumstances it appears to be the simplest and most equitable mode to adopt the plain rule laid down by the Supreme Court of New York, and to hold that it is not a case of double insurance, and, of course, the clause in question has no application whatever.

Judgment reversed, and judgment entered on the case stated for the plaintiff for \$431.53, with interest. (13 Wright, 14.)

So, *with loss* on building, it was judicially determined that there was no insurance on building by the policy of the Philadelphia Fire and Life, although so written; in other words, the indeterminate quantity of insurance on building by such policy was reduced to zero.

On the morning of February 8, 1865, petroleum storage made an early notable fire mark. The flames began in oil sheds on Washington avenue, west of Ninth street; streams of blazing oil were either banked up by the snow upon the ground, or else flowed over the surface of the snow, and the fire reached nearly a hundred structures and outhouses, including twelve

frame sheds and their contents, one coal yard and storage sheds, one brick office, seven stables, one wagonhouse, ten miscellaneous buildings, two factories, and forty dwellings. Five lives were lost. While the value of the destroyed petroleum was estimated at less than \$75,000, the total loss approximated to \$400,000. The buildings were mainly insured in the Fire Association and the Franklin, so far as they were insured. A part of the Philadelphia offices accepted small lines on petroleum hazards. It was said, however, that the petroleum was fully insured in New York companies. Of the total loss, about one-third was insured.

There was in the reappearance of the Equitable Mutual as the purely joint-stock Equitable, significance of the change which had taken place since the decade '41-50, when offices were sustained or created by recourse to scrip issued on earned premium, either as a subsidiary capital or for convertibility into direct capital stock—and thereby capital stock was furnished by the premiums. The Reliance Mutual had become the joint-stock Reliance, and the assets were now \$400,068.71, of which \$300,000 represented the capital stock.\*

Participating, as the city did, in the amazed horror and the apprehension attendant upon the murder of President Lincoln, there were no disturbances of an incendiary character, though alarms were prevalent as to secret incendiarism arising from previous attempts to fire New York hotels and other structures by saturating paper or muslin with a solution composed of phosphorus dissolved in carbon-bisulphide—the paper or muslin so saturated dropped in any place would ignite in from five to ten minutes. Fires were not, however, occurring in Philadelphia beyond the normal rate of ten per week. An English apparatus called the "Extincteur," directed some attention this year to the use of carbonic acid in extinguishing fires, the idea being that the extinguishment was through the union of the suffocative gas with the water.

With the termination of the war with the seceding States there were signs of renewal of the practices which had characterized the previous fire-marine speculations, limited essentially in the renewal to the issuing of fire policies. A People's Fire Insurance Company appeared in August, operating under an act of incorporation of the date of March 15, 1859; but the agencies were holding a position which was adverse to the operation of such local ventures.

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\* An act approved April 24, 1862, repealed the supplementary enactment of April 18, 1843, constituting the Reliance Mutual Insurance Company as a continuance of the original project to establish a "Reliance Insurance and Trust Company," under act of April 21, 1841. Section 2 of the repealing act was as follows:—

SEC. 2. That the corporate name, style and title of the Reliance Insurance and Trust Company, incorporated by an act approved the twenty-first day of April, one thousand eight hundred and forty-one, shall be, and the same is hereby changed to The Reliance Insurance Company of Philadelphia, and by that name, style and title, shall have and enjoy all the rights and privileges, and be subject to all the restrictions and penalties named and provided in said recited act; and the capital stock authorized by said recited act shall be, and the same is hereby reduced from five hundred thousand dollars, divided into shares of one hundred dollars each, to three hundred thousand dollars, divided into shares of fifty dollars each; any additional amount required to increase the present cash capital of said company to the said sum of three hundred thousand dollars may be subscribed and paid in according to the provisions of the above-mentioned act, or the same may be paid in cash according to such rules and regulations as may be adopted at a general meeting of the stockholders convened for that purpose; the present directors shall continue in office until the third Monday in December, one thousand eight hundred and sixty-two, and thereafter the affairs of said company shall be managed by thirteen directors to be elected as provided in the above-recited act.



Still, though non-State companies were increasing in number, and the risks secured by the agencies had doubled since 1862, they did not altogether stop attempts to work new local projects. The Republic Insurance Company of Philadelphia began about October; its programme embraced the "risk of inland navigation and transportation" as well as "loss or damage by fire"—Robert L. Armstrong, president, George W. Waitt, secretary.

A conspicuous feature of 1865 was the advance of the annual premium income of the Enterprise to the next to the highest in amount among the Philadelphia companies doing a fire business exclusively, but the premium income of the Royal, of Liverpool, and the Home, of New York, on Philadelphia fire risks, was in excess of the like incomes of any two local fire offices. The greater part of the amount of annual Philadelphia loss by fire was now paid by the agencies, though the city companies paid for losses at the greater *number* of fires. The insurance applicable to the fire-damaged and fire-destroyed property in the city in 1865 was counted at \$809,870, the property loss being estimated at \$1,269,499.

An Act for the Better Security of the City of Philadelphia from Dangers incident to the Refining or Improper and Negligent Storage of Petroleum, Benzine, Benzole or Naphtha, was approved March 2, 1865, viz.:—

SECTION 1. Be it enacted by the senate and house of representatives of the commonwealth of Pennsylvania in general assembly met, and it is hereby enacted by the authority of the same, That after ninety days from the passage of this act, no petroleum, benzine, benzole or naphtha shall be refined or manufactured within the city of Philadelphia on the eastern side of the river Schuylkill between Allegheny avenue and Mifflin street, excepting thereout the area southward of Washington street and between the river Schuylkill and Thirtieth street, or on the western side of the river Schuylkill south of Girard avenue and east of Forty-third street; nor shall the same be kept or stored in any building or other premises within such limits in any greater quantity at any one time than twenty-five barrels of refined petroleum and one barrel of crude petroleum, and one barrel of benzine, benzole, or naphtha respectively, the said barrels to be kept or stored in buildings with cellars of sufficient depth, or in premises properly excavated or embanked to prevent any overflow of the fluids therefrom, under forfeiture as hereinafter directed of the entire quantity of each and all of the said articles of merchandize that shall be so refined, kept or stored contrary to the restrictions of this act: *Provided*, That it shall not be lawful to keep or store the said quantities of refined petroleum, crude petroleum, benzine, benzole or naphtha within the designated limits without license therefor first had from the mayor of the city of Philadelphia, upon due certificate to be given by the fire marshal of the said city that the cellar, excavation or premises in which storage as aforesaid shall be authorized will afford reasonable security from special danger in case of accidents or fire, for which license the sum of ten dollars shall be paid to the city treasury, and such license to be renewed for each calendar year upon annual payment as aforesaid: *Provided*, That those persons engaged in the business of refining petroleum within the above limits, who have erected iron tanks and other suitable and safe protection against the escape and dispersion of the same, which fact shall be certified by the fire marshal to the mayor, shall not be subject to the provisions of this act until the expiration of one year from the passage hereof: *And provided further*, That nothing herein contained shall prevent the refining, storing or depositing of crude or refined petroleum or coal oil on the west side of the Schuylkill east of Thirtieth street, between Bridge street and Arch street and between Chestnut street and South street, on premises with sufficient excavations or embankments to prevent the overflow or the escape of the oil so refined, stored or deposited in case of fire or accident: *And provided further*, That no refining of petroleum, benzine, benzole or naphtha shall be carried on within five hundred feet of the east or west side of the river Schuylkill, within the said city, north of the line of Girard avenue.

SEC. 2. That it shall be lawful to refine, manufacture, store and keep petroleum, benzine, benzole and naphtha in such quantities as may be desired in those portions of the city of Philadelphia east and west of the river Schuylkill not included within the limits designated in the first section of this act for prohibition therefrom: *Provided*, That the same be at least one hundred feet distant from any dwelling, without the written consent of the owner thereof; *and provided further*, that a license be first had from the mayor of



the city of Philadelphia, for which ten dollars shall be paid into the city treasury, and likewise for the annual renewal thereof, after certificate to be given by the fire marshal of the said city, upon actual survey and inspection of the building or premises in which said commodities shall be refined, kept or stored, or designed so to be; that the said buildings or premises have suitable tanks, cellars, excavations or embankments to prevent the overflow or escape of petroleum and like commodities in the event of accident or fire, which certificate of survey and inspection shall be returned to the mayor, whereupon, if the same be approved by him, he shall issue his license in accordance with the provisions of this act.

SEC. 3. Whenever any inhabitant of the said city shall make oath or affirmation before the mayor of the city of Philadelphia, which shall afford probable cause to believe that any petroleum, benzine, benzole or naphtha is improperly stored, kept or refined contrary to the provisions of this act, it shall be lawful for the said mayor to issue his warrant or warrants to any police officer of the said city, or other fit person, commanding him or them to search for such petroleum, benzine, benzole or naphtha wherever the same may be in violation of any of the provisions of this act, and, if found, to seize and take possession of the same, and cause the same to be removed to such safe place as the mayor shall thereupon designate in writing.

SEC. 4. All actions or suits for the recovery of any petroleum, benzine, benzole or naphtha which may have been seized and detained by virtue of the provisions of this act, or for the value thereof, or for damages sustained by the seizure or detention thereof, shall be brought against the Philadelphia Association for the Relief of Disabled Firemen, and shall be commenced within one calendar month after such seizure shall have been actually made; and in case no action or suit shall have been commenced within such period, such petroleum, benzine, benzole or naphtha shall be deemed absolutely forfeited to said Philadelphia Association for the Relief of Disabled Firemen, and may be immediately delivered up to the proper officer thereof for its use.

In addition to the petroleum law of March 2, 1865, another act was approved the same month and year; its sections, in substance, were as follows:

1-2. Any refinery or storehouse of petroleum on the west side of the Schuylkill, east of Thirtieth street, and between Bridge street and Arch street, or between Chestnut street and South street, must obtain annually a license, paying \$10, and also a certificate from the fire marshal that such premises are constructed and arranged so as to afford reasonable security from danger in case of fire.

3. Petroleum may be refined and stored south of Dickinson street and east of Otsego street, subject to all the provisions of this act.

4. Relates to fees, etc., of fire marshal.

Periodical returns of premiums, temporary and perpetual, to the assessor of the Federal tax, under act of June 30, 1864, were for the year 1865 as follows for all the remaining city fire insurance companies, excepting the Reliance and the rural mutuals:—

Franklin, . . . . .	\$176,435 15
Enterprise, . . . . .	116,272 68
Girard, . . . . .	100,797 00
Fire Association, . . . . .	97,697 65
American, . . . . .	83,953 63
Pennsylvania, . . . . .	70,254 25
Spring Garden, . . . . .	56,473 33
Equitable, . . . . .	37,540 37
Philadelphia, . . . . .	25,715 11
Kensington, . . . . .	21,066 80
Fame, . . . . .	13,808 76
Contributionship, . . . . .	10,099 35
Home, . . . . .	9,242 55
Jefferson, . . . . .	9,016 40
County, . . . . .	7,173 34
Mutual Assurance (Green Tree), . . . . .	7,112 55
Manufacturers', . . . . .	6,139 87
Mechanics', . . . . .	6,007 08
Mutual, . . . . .	5,825 52
People's (five months), . . . . .	4,622 98
United Firemen's, . . . . .	3,826 49
Republic (two months), . . . . .	1,598 30
	<hr/>
	\$870,779 36

Only the first three companies were agency offices at the time. For the year the agency of the Royal paid tax upon \$174,529.66 of fire premiums. The Mutual Fire, of Philadelphia, had \$1,190,750 of insurance in force at the close of the year, and \$91,711 of premium notes; the premiums taxed were cash received on policies issued during the year.

The storm of fire was raging towards the height of its fury. In the first two months of 1866 the city had a full share of the loss by conflagration which made the year 1866 the greatest fire year the country and the city had yet experienced, though not presenting instances of single conflagrations as disastrous as the past had shown. Those who were prone to find cause in mere coincidence and concurrence saw in the reaction from the war, after its close, more danger from fire than the progress of the conflict could have produced.

Another was added to the fire insurance attempts of the time. It was called the Protection—president Marshall Attmore, secretary William Roberts. There was an effort at the Corn Exchange of the city to raise a capital for a projected National Mutual Fire Insurance Company; the project got no further than the opening of books of subscription.

May 12, the directors of the Home, of Philadelphia, voted to close up its business as early as practicable. Its losses, up to January 1, had been less than \$3,000, but were now increasing in great disproportion to the small business. This brief experiment brought no discredit to those connected with it. The Home was not a fraud. The perpetual risks were transferred to the Home, of New Haven, the temporary to the Metropolitan, of New York.

The Equitable was not yet ready to depart, and there was a change in the presidency and the secretaryship—S. Henry Kennedy now taking the presidency. Gross amount of premiums received—all fire—from August 1, 1864, to March 1, 1866, was \$78,168.36; reported as paid for losses \$24,600.50, with but \$6,850 of unsettled claims.

A Security Fire and Marine Insurance Company was next announced; "fire insurance effected on the most reasonable terms." The reasonableness of any terms for a policy in the Security was paralleled by the rationality of an ordinance proposed in the city councils taxing local companies 2 per cent. on their dividends "declared on profits," and non-State companies authorized to do business in the city 3 per cent. upon their dividends—the taxation being "for the support and maintenance of the fire department of the city." Fire insurance companies were not organized as tax collectors, and, in respect to fires, the underwriter and the fireman exercised different and almost opposite functions. There was no way of collecting any expense attending fire underwriting in the city but by adding the cost to the premium. It was a proposal to charge the insured property, or rather the property insured in authorized and tax-paying companies of the city alone, with the expense of extinguishing the city's fires, and was rejected, after the proposition had been changed from levying upon dividends to a proposed levy on gross Philadelphia premiums of the local and non-local offices.

## CHAPTER X.

*The Fire Insurance Problem in 1866—Risk Changed—Ratio of Insured Fire Loss in 1866—The Queen, of Liverpool—Some Premium Receipts—Collapse of the Equitable; Stock Certificates offered Claimants—Dubious Insurance of Excess beyond Specific Insurance—Another Rate Revision by the Philadelphia Board—The Underwriters' Exchange of Philadelphia—Rates of the Underwriters' Exchange—A Session of Executive Committee of National Board—Rates for Night Work—For Prohibition of Fireworks—The Republic and the Security depart—A Court sees Enhancement of Risk—The Lessening Flames of 1867—The Girard and the Pennsylvania open Agencies in New York—Comparative Exhibit of the Two Companies—Manufacturing in a Storehouse not a Manufactory—Non-waiver of Proof of Loss—A Statement of the Guardian—The Great Philadelphia Fire Year—Burning of the Burd Marble Block—Possible Carbonic Oxide Explosion—Color Loading of Silk as an Ignitibility—The Imperial Fire Insurance Company of London—The Protection litigates and closes its doors—Death of Charles N. Bancker—Charles G. Bancker—"Contained in" Adjoining Picker House—Selling Prices of Philadelphia Fire Insurance Stocks, 1869—Death of William D. Sherrerd—Burning of the Patterson Bonded Warehouse—Concomitants of the Great Conflagration and the Insurances, the Rates and the Hazard—The Manufacturers' and the Kensington reach their End—The Commercial disappears and a Manufacturers' Mutual Fire Insurance Company appears—Experience of the Royal's Agency from 1852 to 1869 on Non-Hazardous and Hazardous Risks; Average Premiums on Classes of Risks for the Period—A Fire Salvage Corps projected—Incorporation, Organization and Equipment of the Philadelphia Insurance Patrol—End of the Philadelphia Fire, etc., Insurance Company—The Girard progresses and the Fame declines—Some of the Characteristics of the Great Fire Year—Non est inventus—Non-Corporate Fire and Lightning Insurance prohibited—Insurable Values and Fire Loss Ratios of the City, 1870—The City's Manufactories, 1870—Lists of Agencies in the City, 1870—Judge and Jury—The People's Fire makes a Statement—Effects of Excessive Competition—Non-State Companies preferring the United States Courts—The Fires of 1870—A Paid Fire Department supersedes the Volunteer Firemen—A Home Insurance Company collects Premiums and disappears—The Guardian makes Statements and its Exit—Courts of Common Pleas authorized to incorporate Mutual Fire Insurance Companies—Change of Proprietary Character of the Fire Association—The Teutonia and the German Fire Insurance Company—A New Office Building for the Successful Enterprise—The Enterprise extends its Agencies—Chicago in Flames—Bankrupt Other-State Insurance Companies—What of the Enterprise?—Perpetual Policyholders demand their Deposits and the Enterprise makes an Assignment—Panic among the Insured—Unparalleled Replacement of Fire Risks—The Effect of Chicago on Philadelphia Companies—Time of Paying reclaimed Perpetual Deposits extended and Amount of Deduction increased—Flanders's Treatise on the Law of Fire Insurance—Patrol Report of Fires of 1871—The Insurance of All for Loss of Each—The Association of Fire Underwriters of Philadelphia—Comparison of Ratings of the Association and the Exchange—The State Insurance Company—The Penn Fire Insurance Company—The National Fire and Marine Insurance Company—Boston in Flames—Effect of the Great Boston Conflagration on Philadelphia Offices—Boston consolidates the Association of Fire Underwriters and Increased Rates on Mercantile and Special Hazards are temporarily established. (1866-1872.)*



FIRES as raging in 1866 made the problem as to risks, rates and companies more intricate, and the jeopardy of fire underwriting was driving the insurers throughout the country into associative action—the agency offices necessarily leading in such movement.

Where premiums cannot advance in proportion to augmenting fire hazard, the fire underwriter resorts to limitation of his risk.

A case in the District Court in 1865 (*Steinmetz vs. the Franklin Fire Insurance Company*) had shown the character of the written and defined risk in strong contrast with the fire contingency to which the property was subjected. The scope of the former was fixed, the latter was limitless:

In a perpetual policy issued by the Franklin in 1859 the insurance was to the extent of \$5,000 "on a five-story brick building, etc., occupied as a warehouse for paper, rags loose and in bales, paper cuttings and bleaching powders." Technically, this insurance of a warehouse building, and not a manufactory building, might be regarded as an extreme limit for an admissible perpetual risk. The building was not occupied by the owner; the business of the lessee was adequately described in the policy, but when the fire occurred one story was occupied by a sub-tenant for making muslin window-shades, and of the latter occupancy the owner was not informed; but a misuse of the building with respect to the policy by a tenant (attended with increase of risk) was a responsibility of the owner, and not of the insurer.

Plaintiff declared in covenant. In the charge the jury were told:—

. . . . . If you find from the evidence that there was carried on in the fifth story of the insured premises the business of making muslin window-shades, by the instrumentality of nine or ten persons regularly employed in such a business, and as the sole means of their livelihood, this would be a manufactory within the import of the words in the tenth article of the conditions set forth in the policy of insurance, and would bar the plaintiff's recovery.

Verdict was for defendant, and a new trial was sought on the ground of a misdirection in the charge.

Stroud, J.: . . . . . It was clearly in evidence that at the date of the policy the whole building was in the occupancy of Alexander Priestley, whose business was sufficiently indicated by the description in the policy. The plaintiff demised the whole building to Mr. Priestley, without any restriction as to assigning his lease or sub-letting any part of the premises. Mr. Priestley sub-let the fifth story to Fulckes & Krauppa, one of whom gave this testimony: "We carried on business in the fifth story of the insured property; our business was making muslin window-shades; we used dry paints, ground them down in a mill, and mixed them with benzine; we dried the shades in the room; we had a fire in the room, a small furnace used to boil glue; it was an iron furnace 18 inches high, 18 inches long, and a foot wide; there were shades on the frames on the evening of the fire; we left about 5 o'clock P.M.; we began to carry on the business there April 4, 1864; we rented of Mr. Priestley; had no communication whatever with Mr. Steinmetz; the muslin in the frames was burnt; cans containing oil were not burnt; the paints we used were ground with linseed oil, and thinned down with benzine instead of turpentine; this was done on the premises." . . . . . Rule discharged. (6 Phila., 21.)

For 1866 the fire marshal reported 594 fires in the city; loss \$3,192,977, insurance on burned properties \$1,975,855.

The steady growth of the fire loss through the years 1864, 1865 and 1866, had advanced the ratio of insured loss fully 50 per cent. in the last of these three years above the loss proportion of the first. The approximately five

thousand million dollars insured against fire loss in the United States in 1866 burned about 60 cents per \$100 insured (a higher ratio for the agency companies), and over 70 per cent. of the aggregate premium receipts was paid for losses; and this denoted, in the case of many companies, losses in excess of premiums, with a greater number having premiums less than the total of losses and expenses.

The Queen, of Liverpool, entering the United States in 1866, W. D. & J. H. Sherrerd were appointed agents for Pennsylvania. This office had been organized under a deed of settlement dated July 22, 1858. It was founded to assume the business of the Queen Life Assurance and Annuity Company in connection with general insurance. In the United States the Queen's business was limited to fire risks, and in the eight months, May–December, 1866, the Queen wrote \$11,611,239 on such risks in a few States.

The Fame Insurance Company was an office whose asset and business figures could be trusted. It received for fire premiums \$23,367.49 in 1866, and paid for losses \$25,476.52; and its risks were of a better character than those of any of the city fire insurance companies commencing subsequent to 1860, excepting the United Firemen's. Premium receipts in 1866 of these recent speculations were as follows:—

Equitable, . . . . .	\$38,792
Peoples', . . . . .	23,037
Protection (eleven months), . . . . .	47,019
Security (five months), . . . . .	10,729

The Equitable collapsed in February, 1867. In a statement made by the Equitable for March 1, 1866, the cash capital of \$250,000 was all paid up, and the additional assets were to the amount of \$44,131.65. There were \$27,241.15 of cash on hand, and \$250,000 of "loans on bonds and mortgages, and ground rents (first liens) on property valued at \$580,000, located in New York and Philadelphia." Subsequently the asset figures were changed to the sum of the capital, \$250,000—*i. e.* loans on bonds and mortgages \$175,000, New York State bonds \$50,000, United States 5-20's \$25,000. Then a "Counsel on behalf of Creditors" issued a circular announcing to policyholders, in effect, that stock would be issued, if desired, in satisfaction of claims against the company, viz.:—

PHILADELPHIA, February 12, 1867.

DEAR SIR:—

I suppose you are not aware that the said institution is utterly bankrupt, and without assets of any kind to meet its obligations; but such nevertheless is the case, as has been ascertained at a meeting of some of its principal creditors, held a few days since at the office of the company. . . . . It appears that this state of affairs has been brought about by the prevailing system of underwriting, in charging inadequate rates and allowing large commissions to agents and brokers, added to a succession of unusually heavy losses occasioned by the disastrous conflagrations which have prevailed throughout the country for the last two years or more.

Your position being that of a creditor, to an amount at least of the unearned premiums upon the policies you may represent, it was therefore thought advisable to notify you of this action of the creditors, that you might unite with them, if you thought proper, as their attention has been directed to the following method of securing the ultimate payment of their respective claims. The plan devised, if generally concurred in and acted upon, which it is believed will effect this purpose, is as follows: To extinguish the outstanding liabilities by giving to each creditor an amount of stock which, at par, equals the amount



of each respective claim, with interest. This would place the creditors in the position of stockholders, and enable them to reëstablish and continue the business under a management of their own selection. An arrangement has been made with the stockholders by which the requisite amount of stock can be transferred as soon as all the creditors have assented to the arrangement already made by a portion of them. Parties have agreed to furnish the requisite securities to enable the company to continue business so soon as it may appear that it is out of debt, and this can be accomplished without any liability of stockholders to assessments, as the stock is already fully paid up.

If this is not done, the company must cease to exist, and the creditors lose the entire amount of their claims, without the slightest hope of any dividend whatever.

The Equitable did "cease to exist."

In policies issued on Philadelphia risks by the Germania, Hanover, Fulton and Lorillard insurance companies, of New York, the *pro rata* clause as to associated insurances, or possibly double insurance, was in connection with an incongruous recital of a condition of excess insurance, clumsily introduced and of uncertain bearing. The first was:—

In case of loss, the insured shall not recover on this policy any greater proportion of the loss or damage sustained to the subject insured than the amount hereby insured shall bear to the whole amount insured on the said property.

Then the seventh article was in the following terms:—

If at the happening of any fire, the assured shall have insurance under a floating policy or policies, not specific, but covering goods generally in various places not designated, and yet within limits which include the property herein insured, such policy, as between the assured and this company, shall be considered as covering any excess of sound value of the subject insured beyond the amount covered by the specific insurances thereon; and to determine the amount for which this company is liable in case of loss, such floating policy shall be considered an insurance on the property to the extent of such excess.

The Southwark foundry (Merrick & Sons) was partly destroyed by fire May 17, 1865, and Merrick & Sons had insured in each of the companies named \$5,000 "on stock of tools, steam engines, and patterns and woodwork in a finished and unfinished condition."

In addition to these four insurances, there were policies in other companies on the same subjects aggregating \$75,000. There was also an insurance of \$10,000 by the Liverpool and London Insurance Company on machinery, etc., in "the erecting shop," on the lot of the Southwark foundry; and further insurances amounting to \$50,000 "on machinery made, and being made, intended for, and to be placed in, the steamer Chattanooga, in the various buildings of the assured, but chiefly in the building known as the erecting shop, all at the Southwark foundry, bounded by Washington and Federal and Fourth and Fifth streets, Philadelphia," had been effected in six other companies. All the policies were in force when the fire occurred. The whole loss was accounted at \$50,279.23, and was divided by the representatives of the several companies as follows:—

Machinery made and being made for the Chattanooga, outside erecting shop, .	\$ 1,172 87
Machinery made and being made for the Chattanooga, contained in erecting shop, . . . . .	10,430 40
Machinery made and being made, not intended for the Chattanooga, in erecting shop, . . . . .	10,712 00
Machinery made and being made, not intended for the Chattanooga, contained in other shops than the erecting shop, . . . . .	1,924 16
Stock of tools in machine shop and erecting shop and other buildings, and patterns, . . . . .	26,039 80



A question arose as to what amount was due by the four companies insuring under the forecited excess clause. The companies construed the amount as \$1,911.73 each, the insured claiming \$3,029.37, and the settlement of the difference was referred to the courts.

Nisi Prius. Thompson, J. [Charge to the jury.] . . . . . By this [the plaintiffs'] system the plaintiffs would be entitled to \$3,029.37 from each of the defendants, less the amount of an appraisal of property which we do not consider to have been covered by their policies, to wit: gas pipe and fixtures and the like.

. . . . . We have had the opinions of experienced insurance agents and underwriters on this question. Two of these gentlemen seem to have pretty decidedly embraced the theories of their respective companies; one of them being of opinion that the defendants' system is right, referring to some practice in the city of New York on that basis, but none in Pennsylvania; the other being equally settled in opinion that the adjustment insisted on by the plaintiffs is the true rule under the policies in question in their relation to the specific policies covering portions of the same property covered by the general policies, and thinks that to be the practice in the London insurance companies. A third, an experienced underwriter in this city, agrees in opinion with the defendants' theory, but has never known a case of adjustment on policies like those in this case—general and specific.

We are not materially benefited by these opinions, and we must decide the question for ourselves as best we may. . . . . The question, then, is, are the general policies, covering the whole property within the area of the Southwark foundry, liable to contribute ratably to the loss sustained by the specific policies on property in parts of said area, or specific property within it? If they had all been general policies, they would have been liable to contribute ratably, if all solvent. Why should there be a difference when a part is covered by specific policies, and also covered by the general policies? It is a case of double insurance of the part so covered, and a more favorable risk than a general policy on the whole. This is demonstrable by the rate of premium. The general policies get 2 per cent., and the special 1½. The latter should get the higher premium if they are not entitled to contribution from the former. I instruct you that if there be nothing in the conditions in these policies by which the rule is changed, that the defendants are liable to contribute ratably in paying the loss on the property specifically insured and covered by both classes of policies.

. . . . . It has been said the object of this [*pro rata*] clause was to exclude liability on account of the insolvency of other companies. This may be one, and perhaps the main object, but it shows also that this is the admitted extent of liability by the insurers themselves. It is their language, and the plaintiffs have a right to the full benefit of it in their favor, as well as to bear its burdens when against them.

It is said, however, that this is restricted by the seventh condition of insurance attached to the policy. I admit that the conditions attached to a policy of insurance are to be regarded as the terms on which the contract is made, and are binding on the parties, if clear enough to be understood and applied in the judicial tribunals.

. . . . . Whatever may have been intended by this clause, I am not able to give it the construction contended for, to wit: that it limits contribution by the general policies to the excess not covered by the specific policies. In other words, that it is a condition that they are not to be called on for anything until the specific policies are exhausted, and then are to contribute only to the excess not covered by them. Such a condition could be expressed in a few lines so that it might be comprehended by anybody. It cannot, as it is, be comprehended to mean what is claimed by anybody. Is it the insurers describing their own policy, who speak? This cannot be inferred from the clause. It speaks in the third person, of floating policies, without defining their own to be such. I might safely challenge the ingenuity of the most ingenious if this clause be held to assert that their policies are floating policies, and that it was such that are spoken of, to surpass in ambiguity this clause and find its meaning. I will not enlarge, but instruct you that the clause cannot be construed as the defendants contend.

On appeal, the court in banc, per Strong, J., said:—

. . . . . If it was designed that in case any one of the buildings, or goods in any one of the buildings, of the Southwark foundry should be insured by other underwriters, whose policy might not cover the whole subject insured by these defendants, then only so much should be insured by the defendants as to cover the loss beyond the sum thus insured by others, it should have been clearly expressed. And if the defendants have left

the existence of such a design doubtful by using obscure language, they ought not to complain if they be held to that construction of their language which is most unfavorable to them.

In regard to this condition many questions may be asked which it is impossible to answer with certainty. What is a floating policy? Is it defined in the condition? If so, it is a policy larger than either of those which these defendants issued, for the limits within which the goods are insured by it do *include* the property insured by the defendants. Or is it a policy on goods generally, without any designation of the place where they may be? If so, the policies of the defendants are not floating policies, for they are designatory of place. Other questions might be asked, but we are not called upon to determine what the condition does mean. It is enough if it does not exempt the defendants from a liability which would exist without it. It seems quite evident that when the defendants spoke of floating policies, they referred to some other policies than their own. They are spoken of as distinct, and it is *such* floating policies of other underwriters that are to be considered as insurance upon the property to the extent of the sound value of the subject insured—beyond the amount covered by the specific insurances thereon. We do not feel warranted, therefore, in holding that the seventh condition of the defendants' policies confined *their* liability to the excess of loss above that covered by what are called specific insurances. The court, then, was not in fault in the instructions given to the jury.

Judgment affirmed. Woodward, C. J., dissented. (4 P. F. Smith, 277.)

Technically, the fact of a higher rate being charged for the non-special than the special policies, was against any greater limitation of the former than the latter as to any risk to which they could be rationally construed as being jointly, or even severally, applicable.

March 27, 1867, the Philadelphia board again revised its tariff. As compared with the revision of 1857, there was a general advance on mercantile hazards, with exceptional advance on manufacturing hazards. The highest rate per annum on specially named establishments was \$3.50, against \$2.50 as the highest in 1857, but a Market street umbrella factory was marked down from \$2.50 to \$1.50. Store and warehouse buildings, when in connection with insurance on contents, were: First class 20 cents per annum, Second class 25 cents, Third class 30 cents, Fourth class (frame) 90 cents; usual extra charges for height, communications, additional occupancy, and narrow streets. The tariff was a trade arrangement, from the minimum specific charge of 5 cents to the maximum full rate of \$7.50. Some instances of rates on contents per annum, to be charged in addition to rate on building, were as follows. A \* denoted that such article only was to be charged according to the registered premium, and not the building or the other articles contained therein.

Anchors,\* anvils,\* chain cables,\* copper, in pigs, bolts, bars or sheets;\* dry goods—staple, domestic and foreign, in packages;\* iron—pigs, bars, bolts and rods;\* lead,\* provisions, salted;\* shot, in bags;\* wool, in bales or loose,\* . . . . . 15 cts.

This was an advance of 5 cents, or 50 per cent., from 1857.

Agricultural implements, without seeds;\* boots and shoes,\* carpets and carpeting,\* cotton yarns,\* dry goods—chiefly open, jobbers' stocks;\* dry goods—silk and fancy, chiefly in packages, importers' stocks;\* fireproof safe and refrigerator stocks,\* hides and leather,\* jewelers' stocks, in fireproof safe;\* matting,\* molasses,\* oil cloths,\* sugars,\* tin plate, in boxes;\* trunks,\* woolen yarn,\* . . . 20 cts.

This was an advance of  $33\frac{1}{3}$  per cent.

Auction, goods at—books excepted; barilla,\* beeswax, brass or iron castings,\* bristles,\* candles and soap, canes and whips,\* chandeliers,\* chinaware in packages; clothing, ready made, in stores;\* coffee,\* corks, curriers,\* dry goods\*—silk and fancy, chiefly open, silk jobbers; and retail staple as well as silk and fancy; dye-woods in stock; earthenware in packages; flour,\* fringe



and trimming stocks,\* furriers' stocks,\* gas-fitters' stocks, glassware in packages; grain,\* groceries, wholesale; guano,\* gunny bags,\* horns,\* hosiery\* indigo in packages;\* lard oil, liquors in original packages; meal,\* nails\* oil cake and seeds, oil—lard, sperm, linseed and castor; pearl ash,\* pickles,\* potash,\* provisions and produce, wholesale;\* rattan,\* rice,\* salt,\* steel,\* stone-ware,\* stove stores, tailors' stocks,\* tallow, teas, wholesale;\* watches and jewelry in packages as imported;\* whalebone,\* wine in original packages,\* . 25 cts.

Here the advance was 25 per cent. Premiums on Second Division of Hazardous Class were thus increased 25 per cent. Subjects were shifted from one degree of designated hazard to another as experience changed, and damage by water and smoke, large stocks, etc., had their influence in modifying rates as well as combustibility.

First Division of the Extra Hazardous Class was advanced 20 per cent. So, at 30 cents were rated:—

Agricultural implements, with seeds;\* apothecaries, retail; bakers, bread and cake; barbers' stocks,\* baskets, bell-hangers,\* [books at auction were transferred to First Division, Specially Hazardous,] britannia ware,\* brushes,\* button stores,\* caps and hats, stores; carriages in salesrooms; chinaware, open; coach, lace and military stores;\* combs,\* curled hair,\* earthenware, open; feed stores, without hay or straw;\* fruiterers, exclusively,\* etc., etc.

Second Division, Extra Hazardous, 35 cents. This class was materially changed from 1857.

Artificial flowers,\* feathers in sacks, laces and embroideries,\* liquors in casks or glass, etc.; notions and small wares,\* paper in packages or reams without rags;\* saltpetre, one ton or less; seeds, grass or garden;\* segars and tobacco, wholesale;\* straw goods, retail,\* [wholesale,\* 30 cts.]; wine in casks or glass, packed or open;\* wooden ware, exclusively.\*

First Division, Specially Hazardous:—

Books, at auction; bark, in hogsheads; books and stationery,\* cap manufacturers, copper-smiths, engravers on metal—stock and utensils, fancy soaps and perfumery,\* gilders, gutta-percha and india-rubber goods, housekeeping articles, jewelry manufacturers, looking-glass in packages;\* madder, exclusively;\* naval stores—tar, pitch, turpentine and rosin; oakum in bales; painters and glaziers, parasols and umbrellas, with privilege of putting together; plumbers, provision stores, family;\* segars and tobacco, retail;\* ship chandlery, silver platers and smiths, snuff, retail;\* soda and soda ash,\* sulphur, sumach, exclusively;\* wire workers,\* were charged 40 cents in addition to building rate.

And—

Alcohol, braiders, brush makers, cabinet-ware salesrooms only, clocks,\* colormen's stocks, daguerreotypists' stock, with privilege of one gallon of collodion and eight ounces of guncotton; drinking and eating houses, taverns, porter and beer houses; fishing and fowling tackle,\* flax, hemp, manila and sisal grass, in bales or loose; fringe and trimming stocks, with manufactories; grate makers, hardware,\* hair dressers' stocks, lamp stores, with liquids for lighting; musical instruments and music stores,\* oyster cellars, pawnbrokers' stocks,\* saltpetre, over one ton; soda, nitrate of; stove stores, with manufactories; webbing and suspender manufactories, Yankee wares, were charged 45 cents in addition to building rate.

Books in brick dwelling,\* copperplate printers, dye-woods, chipped or ground; electroplaters, essential oils,\* furniture in buildings occupied partly as stores,\* furniture and libraries in private offices,\* furniture and fixtures in churches,\* lithographers, paper warehouses with rags, rags not in pressed packages, rectifiers of liquors, straw goods manufactories, were charged 50 cents in addition to building rate.

Furniture and libraries in public buildings and academies, brick,\* 60 cents—full rate; organs, brick buildings,\* 75 cents—full rate; furniture and regalia of Masonic and similar institutions, brick buildings, \$1.00—full rate.

Second Division, Specially Hazardous, presented these contrasts, among others, with 1857—full rate. Most of the manufactory rates were, however, unchanged.



	1857.		1867.	
	Brick.	Frame.	Brick.	Frame.
Academy of Music, . . . . .			\$3.00	
Acids—nitric, muriatic, sulphuric, and others causing ignition, . . . . .			1.50	
Bleacheries, . . . . .	\$2.50	\$3.00	3.00	\$3.50
Blind makers, . . . . .	2.50	3.00	3.00	3.50
Block and pump makers, . . . . .	1.00	1.50	1.50	2.00
Breweries—with or without malt kilns, . . . . .	1.00	1.50	1.25	1.75
Brickyards and buildings connected therewith, with contents, . . . . .		(\$3.00)	2.00	2.00
Coopers (cedar and oak), . . . . .	1.00	1.50		
“ cedar, . . . . .			1.50	2.00
“ oak, . . . . .			1.25	1.75
Cotton factories, water or steam power, . . . . .	2.00	2.50	†2.50	†3.00
Fulling mills, . . . . .	2.50	3.00	1.50	2.00
Gutta-percha and india-rubber factories, . . . . .	3.00	3.50	2.00	2.50
Lampblack manufactories, . . . . .			7.50	
Lard-oil factories, . . . . .	1.50	2.00	2.00	2.50
Match factories, . . . . .	5.00	6.00	7.50	
Moulding, planing, grooving or saw mills, . . . . .	5.00	6.00	7.50	
Museums, . . . . .	1.00	1.50	1.50	2.00
Paper mills, . . . . .	2.00	2.50	2.50	3.00
Petroleum, refined, . . . . .			2.50	
“ crude, . . . . .			7.50	
Printing, dyeing and bleaching factories, . . . . .	2.50	3.00	3.00	3.50
Sugar refineries, . . . . .	2.50		†2.25	
Theatres, . . . . .	4.00	5.00		
“ building, . . . . .			4.00	5.00
“ contents, . . . . .			5.00	6.00
Woolen factories, . . . . .	2.00	2.50	2.50	3.00

† Picker in separate building. ‡ With blacking furnaces or drying kilns; without, \$2.00

Rate book was not to be given to any one outside of the board. No commission was allowed on city business. A penalty of \$5 was imposed for each infringement of the rates established by the board.

The Underwriters' Exchange of Philadelphia, composed of agencies as well as local companies, was also organized. It was made up of elements which rendered continued harmonious action extremely problematical, but as necessarily providing in its rates for commissions on city risks, its opportunities to underrate the board were limited. Its term rates were as follows:—

Three years, two and a half annual rates.		
Five “ four	“	“
Seven “ five	“	“

Short or monthly rates had been established for years in general practice. Daily rates, where annual premium was \$1.50 or more, adopted by the Exchange were, for 5, 10, 15 and 20 days, respectively 1-15th, 1-10th, 2-15ths and 1-6th of annual rates, or slight deviations therefrom. (To meet the conditions of the trade, a two-day rate on petroleum—1-6th of monthly rate or 1-30th of annual rate—began to be charged.

Nominally, the Exchange charged on warehouses, stores and dwellings occupied partly as stores, per annum: First class 30 cents, Second class 35 cents, Third class 40 cents, Fourth class \$1.00. Full rates on goods in Third-class buildings of brick or stone were of the following character—5 per cent. deducted for Second-class buildings, 10 per cent. for First:—

Salted provisions, . . . . .	0.45†
Wool in bales, . . . . .	0.45†
Agricultural implements, . . . . .	0.50
Boots and shoes, wholesale, . . . . .	0.50
Corks, . . . . .	0.55
*Window or plate glass in boxes, . . . . .	0.55
Baskets, . . . . .	0.60
Boots and shoes, retail, . . . . .	0.60
Dry salters, . . . . .	0.65
Dye-woods and dye stuffs, . . . . .	0.65
*Books and stationery, . . . . .	0.70
*Fancy soaps and perfumery, . . . . .	0.70
Alcohol, . . . . .	0.75
Colormen's stocks, . . . . .	0.75
Paper in packages or reams, with rags, . . . . .	0.80
Rags, loose, . . . . .	0.80
Broom corn in bales, . . . . .	1.00
Cotton bats and wadding, . . . . .	1.00
Firecrackers, . . . . .	1.00
Furniture in hotels, . . . . .	1.00
Lime, . . . . .	1.00
Fireworks, . . . . .	1.50
Hay and straw in bundles or bales, . . . . .	1.50
Petroleum, refined, not more than 25 barrels, . . . . .	2.00
Cotton waste, . . . . .	5.00

† First and Second class buildings.

Manufacturing hazards, Third and Fourth class buildings, were at board rates.

A session of the executive committee of the National Board of Fire Underwriters was held in Philadelphia, June 12 and 13. This association had been formed by a national convention of fire underwriters which met in New York, July 18 and 19, 1866. The Insurance Company of North America, represented by Secretary Charles Platt, the Insurance Company of the State of Pennsylvania, represented by President Henry D. Sherrerd, and the Enterprise, represented by Vice-president Thomas H. Montgomery, were members of this board. Resolutions were adopted recommending for night work in mechanical and manufacturing establishments a double rate for all year and entire night, and "for a less time, according to the scale of short rates; fractions of months to be charged the same as full months, unless otherwise ordered by the local boards." It was also recommended that companies refuse permission to all dealers for the keeping or sale of firecrackers or fireworks of any description, and that the local boards use their influence with the local authorities to prohibit the use of fireworks on the ensuing Fourth of July. (Total insurance loss by the fire at Portland, Me., July 4, 1866, \$3,400,000.) It was declared as the opinion of the committee, that "the time has arrived when the commission to agents should be reduced to 10 per cent."

The Republic Insurance Company managed to keep its doors open for eight months in 1867, and it then succumbed. The Security was also added to the departed ones. Like the Equitable, they left "not a wreck behind."

A conception of the fire risk as a graduation appeared this year in court (*Denkla vs. Insurance Company*):—

Hare, J. [Rule for a new trial.] . . . . . The plaintiff contends that inasmuch as the question whether the risk had been so increased is one of fact, and was submitted as such to the jury, their verdict ought not to be disturbed. When, however, the judge, before whom the cause is tried, gives the law, and the jury, as will sometimes

happen, disregard the facts, the case appeals strongly to the discretion of the court, because the party loses his writ of error and has no remedy if a new trial is refused. In the present instance, two adjoining stores, insured under different policies by the same underwriters, were virtually thrown into one by making archways through the walls, which remained always open and were not even provided with doors. Such an alteration seemed to me to afford a strong presumption that the risk was increased, because a fire breaking out and gaining headway in one building would almost necessarily extend before long to the other; and the witnesses called on the part of the defendants were distinct and unanimous that the alteration tended to produce this effect, and would, if known, have required a corresponding increase of premium. No testimony was adduced on this point by the plaintiff, and as the credibility of the defendants' witnesses was not impugned, the decision of the jury is flatly against the evidence and must be set aside. The question, however, remains as it was—a question of fact; and if the plaintiff can, at another trial, succeed in showing by any competent means that the alteration did not enhance the risk, he may not only obtain, but hold the verdict. Rule absolute. (6 Phila., 233.)

The flames were now receding, the loss ratio of 1867 being about one-half of that of 1866. Fire Marshal Blackburn reported for the city 519 fires, involving property loss of \$719,000, with \$414,000 of insurance. "An experienced fire underwriter is under the impression," remarked in the middle of the year the Insurance Intelligencer, "that the fire insurance business was in a more healthy condition than it has been for a long period," which might have indicated that the boards or associations of underwriters had succeeded in improving the methods, and had elaborated a better system resting upon the application of larger information, but it appeared that the "healthy condition" aforesaid was mainly the incidental conjunction of advancing premiums and suddenly decreasing fire loss; and the latter had the inevitable tendency to demoralize the new ratings, though it was said there had been made a sort of equity by removing the burden of the previously undercharged hazards from the other hazards.

In 1867 the superintendent of the New York insurance department, after a personal examination, pronounced the Girard Fire and Marine Insurance Company "sound and satisfactory," and it was admitted to do business in that State, March 28. The Pennsylvania Fire Insurance Company beginning an agency business, was authorized in New York, October 18. At the end of the year the Pennsylvania had three agents in New York, and none elsewhere; the Girard reported fifty-three agents in various State. The exhibits at the close of the year were as follows:—

	1867.	Pennsylvania.	Girard.
Premiums (net cash), temporary risks, . . . .		\$ 76,502 95	\$136,903 33
Total income, . . . . .		142,727 12	156,580 27
Paid for losses, . . . . .		22,560 68	37,763 84
Dividends, . . . . .		60,000 00	19,960 00
Total expenditures, . . . . .		106,886 35	103,846 23
Fire risks in force, December 31,—less than			
one year to run, . . . . .	10,178,483 00		12,898,710 00
" less than three years, . . . . .	62,300 00		1,289,450 00
" more than three years, . . . . .	98,850 00		263,840 00
" perpetual, . . . . .	11,373,937 00		1,968,349 66
Average annual dividend to stockholders, . .		20.54%*	5.67%+
Par value of stock, . . . . .		\$100	\$100
Market value, . . . . .		200	100
Capital, . . . . .		400,000 00	200,000 00
Assets, . . . . .		1,079,553 94	357,294 42
Net surplus, . . . . .		365,968 95	78,046 06

\* From April, 1825. † From 1853.



December 3, 1857, the Franklin Fire Insurance Company insured by policy No. 26,321 (perpetual) and by policy No. 26,322 (perpetual), respectively, two five-story brick storehouses with cast-iron fronts, on the west side of North Delaware avenue, subsequently numbered 242 and 244—John Brock, owner. Under policy 26,321, \$6,000, deposit 5 per cent., or \$300, there was "privilege to occupy as a ship-chandlery store"; No. 26,322, "privilege to store merchandise generally—gunpowder, guncotton and saltpetre excepted,"—\$6,000 at 4 per cent., or \$240. In the description of each building it was occupied as a sail loft in the upper or fifth story; "the partition between this" and the adjoining building "has been taken away, making the two into one room."

Of annexed conditions, IV was the same as IV previously given in the perpetual policy of the United Firemen's; X was the same as IX of the Franklin's perpetual policy of 1829, excepting that in section III of the enumerated more hazardous risks to which the policy should not be construed to extend, "unless liberty be given for the purpose, and expressed thereon," steam engines were added in the later policy.

In No. 242 the tenant kept hay, straw and feed, with the consent of the company. In November, 1865, the tenant gave up the hay business, and went into keeping broom-corn and making brooms in a small way.

Fire occurred January 30, 1866, damaging No. 242 more than the \$6 000 insured, and No. 244 to the extent of \$4,925.

On certificate from Nisi Prius—

Read, J.: . . . . . The fourth condition in each policy is: [condition recited.] Each policy was, therefore, by the express declaration of the defendants, made a separate and distinct contract, unconnected with any other policy on any building on any other lot.

The question narrows itself down to this: Does the making of brooms come within the words "mills and manufactories of any kind," in the third section of the tenth condition of the policy? To this question we think our brother Strong gave the proper answer in his charge to the jury. "Is not a manufactory, or a factory a building, the main or principal design or use of which is to be a place for producing articles as products of labor? There is no difficulty in understanding what is meant when we speak of a factory or manufactory. It is something more than a place where things are made."

"The collocation of the words in the condition is of considerable weight in determining what the parties meant. Not only are the kinds of manufacturing business excepted from the policy named, but the real estate excepted is called 'mills and manufactories.' This would seem to indicate what was in the minds of the parties, mills and manufactories, something known, recognized, called a mill (not merely a place where something might be ground), but what common usage recognizes as a mill. A manufactory (not merely a place where something may be made by hand or machinery), but what in common understanding is known as a factory." This appears to us the true construction and meaning of these words. The theory of the defendants requires the word manufactories should be read manufactures, which we shall certainly not do. Our learned brother was therefore right in saying to the jury, if it had not been converted from a storehouse into a manufactory, the plaintiff was entitled to recover, and that there was no defence to the claim of the plaintiff upon either of the policies. Judgment affirmed. (7 P. F. Smith, 74.)

As an additional adjudication on the requirement of proof of loss, it was held in the District Court, Sharswood, P. J., that verbal notice of loss having been given, the company's sending thereon an agent to investigate and ascertain cost of reconstructing premises, was not waiver of such proof. (*Busch vs. Ins. Co.*, 6 Phila., 252.)

The Guardian Fire and Marine Insurance Company did not succeed in writing any marine risks. Its statement for the first quarter of its business, ended March 31, 1868, "duly affirmed according to law" by the president, William E. Owens, and Nathan Haines, secretary, as being "just, true and correct in every particular," specified amount at risk as \$223,407, premiums paid \$2,100.47, due \$3,298.64, and in addition to premiums due there was an asset list footing up \$103,000, including notes at short dates for the par, \$100 each, of 207 shares of stock. It had been represented that \$82,300 of the capital had been paid up in cash.

The Imperial Fire Insurance Company of London, founded in 1803 by the directors of the East and West India Dock Company, in antagonism to the rates of insurance charged by then existing English companies on their newly constructed warehouses, having had for some years a branch office in San Francisco, made its advent upon the Atlantic coast, with Edgar W. Crowell, of New York, as resident manager of the United States branch. The company complying with the laws of Pennsylvania, Prevost & Herring were appointed agents at Philadelphia, July 1, 1868.

January 14, 1869, the greatest fire year experienced in Philadelphia began its combustible magnitude with the burning of the Burd marble block, at the south-west corner of Chestnut and Ninth streets. This fire originated in the Sansom-street end of the basement of the jewelry store of Caldwell & Co.—where gas jets were burning—and the flames spread to two adjoining buildings, one occupied as Howell's paper store, and the other as Orne's carpet store. The loss approximated to \$800,000. One or two slight explosions attended the progress of the conflagration. In the investigation of the origin of the fire by a jury, leakage of illuminating gas appeared as a possible cause of the ignition and the spread of the flame. Robert Cornelius, manufacturer of the chandeliers, testified that—

I could see that there had been gas escaping—it had all the appearance of an explosion of gas; there may have been a leak under the floor, and the gas spread right and left, and communicated with the other buildings through the joist holes; the gas accumulated until it obtained a vent, and came in contact with a light on the second floor; and it might give one, two or three explosions. My impression is that the leak occurred between the ceiling and the second floor; my theory is that the gas was between the joists of the second floor, and, having found a vent, was ignited by a gas light, which communicated to the gas confined between the joists, and this was followed by the explosion, which must have forced down the ceiling in both Caldwell's and Orne's store. The ceiling in Orne's store is torn down for about one hundred feet, and that portion of the plaster which came in contact with the joists is blackened.

Matthias Stratton, the gas fitter, thought that—

When the main pipe was broken, there was a sufficient amount of gas escaping to cause this great destruction of property.

The testimony was recognized as suggesting that with such great values exposed, the gas should be turned off at nights. There was also a conjecture that some of the spherical compartments in two Harrison boilers in the cellar had exploded.

The investigation did not disclose the origin of the fire. At the first alarm smoke was issuing from the rear end of the basement, and flame was first observed there, but two clerks in the store were burned to death.



Fire Marshal Blackburn's investigation induced him to entertain an hypothesis that the destruction was caused by the ignition and explosion of carbonic oxide, viz.:—

On the night of the conflagration the weather was calm and the atmosphere misty. The porter in banking the fires of the heating apparatus put on a fresh supply of anthracite. The fuel was full of coal dust. An examination of the pile from which it was taken in the vault proved this. The quantity of coal placed in the firebox was liberal. The furnace doors were arranged as usual to check the flow of air to the grate and insure a very slow combustion. From the porter's own statement I am induced to think that the flue damper of the Sansom-street furnace, by an unintentional and unconscious omission on his part, was improperly regulated, and thereby the delivery of the products of combustion to the chimney was retarded. The result was the production of carbonic-oxide gas and its diffusion through the apartment. This gas is combustible, and under certain conditions explosive. My inference is that the carbonic oxide produced and diffused in the manner explained, ignited and exploded when it met with the circumstances favorable thereto, and thus communicated the fire to the premises. The flames, rapidly increased by the ignition of the packing material that littered the cellar floor and filled the bins, soon involved the boarded ceiling and stairway, and licking through the crevices of the hatchways of the first and second floors, leaped to the top of the building.

Carbonic oxide, itself suffocative of flame, being lighter than the atmosphere, can be diffused through it, and so diffused in the ratio of about 1 to 14 of oxygen, and highly heated, ignites, burning with a blue flame; and if mixed in increased proportion with the air, the combustion is rapid and is accompanied with detonation. The product of the combustion or explosion is carbonic acid, whose formation increases the nitrogen percentage of the atmosphere by the absorption of oxygen. Generally, the conditions of imperfect combustion which generate carbonic oxide, extinguish rather than inflame, but the coals fed to the boiler grate and the littered floor may have been the origin of the conflagration as it devastated.\*

Yet continuing its uncertain tenor, the Protection Insurance Company was resisting a claim in the Nisi Prius court. It had insured the merchandise of George W. Dewees, owner of a country store at Gardnersville, Hunterdon county, N. J., for one year from the date of February 3, 1867, in the sum of \$2,500 at the annual premium of \$31.25. The store burned July 5, following; building and contents both destroyed. Loss was estimated at \$18,000, without any books of account. The defendant corporation resisted payment on these grounds: 1, Non-payment of premium, the money being paid to John H. Phillips, who was an agent of the plaintiff, and not an agent of the company; 2, plaintiff guilty of misrepresentation and concealment; 3, misdescription; and under the first condition of the policy, the application upon which the policy was issued was a warranty; 4, concealment of material fact; 5, knowingly claiming more than amount of loss. The jury gave a verdict for the plaintiff for \$2,695.90. Soon after, the Protection closed its doors. It was the successor of the Farmers and Mechanics'.

Charles N. Bancker, founder and president of the Franklin Fire Insurance Company, died February 18, 1869, in the 92d year of his age, after forty years of

\* Incidental destructive ignition in its chemical and physical characteristics was now receiving greater attention. At the French Academy of Sciences the heavy loading of the fibre of silk with coloring matter was disclosed as to ignitibility. Silk charged with such matter 50 per cent. beyond its own weight, heated in a stove up to 239° F., losing 22 per cent. of water, and then taken out into the air, took fire either immediately or after a few minutes, beginning either in sparks or sudden flame. The so dried material moistened rapidly upon exposure to the air.



practice as a fire insurance official, and earlier, according to tradition, a correspondent of London fire offices, receiving Philadelphia risks. He was a native of the city of New York—born in that city in the year of the Declaration of Independence—but came to Philadelphia in his minority in 1795. As has been said, he was a Philadelphia dry-goods merchant at the beginning of the nineteenth century; and he was always a student of physical science, and a rigorous technical fire underwriter. He resisted, without swerving, every encroachment upon the legal principles of the fire insurance contract.

Standing aloof from the position that the fire insurer is a mere trader in policies, he did not fail to recognize the need of association among fire underwriters, but he doubted its practicability, and was distrustful of such associations as having, in their ruling majority, men without either the capacity or knowledge to guide in such matters, or the good faith to maintain their own resolutions. As to tariff associations, rates, in his judgment, were determined by fire jeopardy and expense, and most by the character of the underwriting. They might be ascertained, they could not be prescribed. Strongly self-centred, he stood alone, and the Franklin stood alone with him. His brain governed and his will decided. He made the financial foundation of his company of the firmest character—when he died the net surplus was equal to 269 per cent. of the capital stock—he made the Franklin the greatest fire insurance office in the land,\* but in his later years, with the growing distrusts, arising from advancing age, he fell away from the leadership. He narrowed where he had been broad. Viewing the fire insurance method as in confusion and chaos, he restricted and restricted on temporary risks, especially mercantile, and when death came to him, faith in all fire insurance had nearly all gone out of him, excepting the much cherished perpetual policy. But let move before us, as in vision, the past of Philadelphia fire insurance back of 1855, Charles N. Bancker is the foremost personality in the onward scenes.

Upon the death of Mr. Bancker, Alfred G. Baker, of the firm of Leonard, Baker & Co., was elected president, and J. W. McAllister was made the official secretary, having previously discharged the duties of the position as secretary *pro tem*.

Location as of the essence of the contract, and location as merely descriptive or designative generally, with the question, is the broker agent of insurer or insured, were the contention in *Meadowcraft et al. vs. the Standard Fire Insurance Company of New York*, which company was represented in Philadelphia by W. D. Sherrerd & Co.

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\* Charles N. Bancker, president, was materially aided in the administration of the affairs of the Franklin by his son Charles G. Bancker, who began as clerk in the office at the commencement of the company, and was subsequently elected secretary. By the testimony of his contemporaries Charles G. Bancker was a man of the rarest aptitude for the details of fire underwriting; skilled in the construction and application of policies, in the use of forms, in the bearing of surveys in fixing the grade and class of hazard, and in the adjustment of losses; and to these qualifications was added excellent administrative ability. A career of great promise was, however, unfulfilled. There was some significance in a *mistake* of the New York comptroller's report for 1851, in inserting at the head of the Franklin's annual statement "Charles G. Bancker, president." Though the Franklin was not in association in the Philadelphia Board of Fire Underwriters, there is some circumstantial evidence that Charles G. Bancker coöperated with the board's rating committee in 1852, with his knowledge and judgment largely determining the classifications and premiums which were adopted.

Secretary Charles G. Bancker resigned March 24, 1857; he died in March, 1861.

The material parts of the policy were as follows:—

By this policy of insurance the Standard Fire Insurance Company of the city of New York, in consideration of \$75, to them paid by the insured hereinafter named, the receipt whereof is hereby acknowledged, do insure James Meadowcraft & Co. against loss or damage by fire, to the amount of \$2,500.

On machinery, consisting of cards, mules, pickers, shafting, belting and fixtures, used for spinning and manufacturing carpet yarn, . . . . .	\$2,250
On stock of raw materials, and yarn finished and in process, . . . . .	250
	<hr/> \$2,500

All contained in the first story of a four-story and basement brick, slate-roof building, situate on the corner of Coral and Letterly streets, Nineteenth ward, Philadelphia.

The picker house was a one-story brick extension or annex of the main building, attached at one angle to an angle of the main building, and there was no door leading from the picker house to the main building. A fire occurred and the pickers were destroyed. At the trial in the District Court, William D. Sherrerd testified:—

James Thompson, as agent of Meadowcraft & Co., applied to me for the policy. He brought this policy into my office and asked me to give a policy in these terms. I told him I would not do it. He asked, would I take it for 2 or 3 per cent. I refused; would not take it on any premium. Saw rags there, and things which were considered uninsurable. On account of the iron doors, however, we were induced to take the risk.

And on cross-examination: . . . . . I would put anything in the policy that Thompson asked. I don't know that Thompson follows the business of an insurance agent. He has brought policies to our office, and we made him a discount, the same as anyone else. He did not state that he was the agent of Meadowcraft & Co. Did not ask him the question.

In charging the jury, the court (Hare, J.,) reserved the question whether the articles in the picker house at the time of the fire were within the meaning of the policy—"contained in the first story of the four-story and basement brick, slate-roof building." The jury found for the plaintiffs \$1,175. The court afterwards entered judgment for the defendants on the question reserved, which was assigned for error.

In Error. Thompson, C. J.: . . . . . This was a valued policy attaching to the machinery of the plaintiffs in the building described, and covered pickers as part of that machinery in express terms. The premium paid applied to them as well as to any other portion of the property insured. . . . .

It was not pretended on the trial that there had been misrepresentation in regard to the location of the pickers. Thompson, who acted for the company in taking the insurance, and for which he received a percentage from it, knew all about it. It is, therefore, perfectly evident that he regarded the picker room as part of the first story of the building, and acting for the company in the matter, they are bound by his acts after receiving the premium, in the absence of any fraud practiced on him. Situated as the room was, substantially a part of the first story of the main building, it was competent to cover the property in it by assent of all parties, and not competent for either to refuse to be bound after doing so.

The primary object of the policy was to insure the property described; its precise location was a subordinate matter, which the parties might regard and treat as of less importance, and in the absence of any false representations by the insured as to the precise location, it is to be presumed they so dealt. No written application was made or required, it seems. The agent of the company took the description of the property and the amount at which it was to be insured, and procured the policy for the plaintiffs.

There is no room for escape from the policy on the ground of mistake in introducing into it the pickers. . . . .

And now, May 11, 1869, the judgment of the District Court in the above entitled suit is reversed, and judgment is now here entered in favor of the plaintiffs on the verdict for



the sum of \$1,175 damages, with interest from the 10th day of May, 1865, and costs. (11 P. F. Smith, 91.)

The following sales of fire insurance stocks by auction occurred in May and June of 1869:—

10 Shares	United Firemen's, . . . . .	par \$10,	Paid in \$4, at \$	4 00
5 "	Reliance, . . . . .	" 50,	. . .	47 00
26 "	Spring Garden Fire, . . . . .	" 50,	. . . \$100 00 @	101 00
80 "	Fame, . . . . .	" 50,	. . .	45 00
35 "	Philadelphia Fire, . . . . .	" 12.50,	. . .	50
70 "	American Fire, . . . . .	" 100,	. . .	162 50
100 "	Enterprise, . . . . .	" 50,	. . . \$50 00 @	51 75
3 "	Franklin, . . . . .	" 100,	. . .	402 50

William D. Sherrerd died June 13. He had been connected with insurance in Philadelphia from 1837, engaging first in the marine department of underwriting, and in 1840 his ability as an adjuster of marine averages was recognized. As agent of the Hartford Fire Insurance Company in 1850, he was at the beginning of the great development of agency fire insurance in Philadelphia, and at one time the companies represented by him exceeded in their aggregate stock capitals the aggregate stock capitals of the Philadelphia fire offices; but the preference in Philadelphia was rather for large net surplus than large stock capital. He was noted for his expertness as a fire-loss adjuster as well as for his prominence as an agent. On the 16th, the fire insurance agents of the city met at the office of Sabine & Allen, and gave this testimony to his memory:

*Resolved*, That we have received with deep and heartfelt grief the announcement of the unexpected and sudden death of our friend and advocate, William D. Sherrerd, Esq., who, by the uprightness of his character, the kindness of his disposition, and the uniform courtesy of his manner, has won the respect and esteem of us all; and that keenly sympathizing with his mourning family and partners, we do hereby tender to them this expression of our sorrow for their irreparable loss.\*

August 4, the most destructive conflagration in the history of Philadelphia occurred—the most destructive as to amount of value destroyed. This burned the eight sections of Patterson's bonded warehouse—dimensions 300 by 150 feet—at Lombard and Front streets. Whisky—24,000 barrels—constituted the principal contents. Much of this was "in heat," *i. e.*, kept at a constant temperature of about 100° F., to produce the mellowing effects usually attributed to age. There was evidence that a part of the wall on Lombard street (Section H, the last constructed building,) fell before any sign of fire, the fall being preceded by a rumbling noise "like the sound of a dray over the cobble-stones," according to one witness. The heating was supplied by steam from boilers under Lombard street. Apparently the alcoholic liquor was inflamed by a portion of it reaching a furnace, and the ensuing fire was accompanied with detonations arising from a heated mixture of alcoholic vapor and atmospheric air. The whisky in Sections F, G, and H, was in heat, valued at \$2.10 @ \$5.75 per gallon; the value in Section A was \$6.00 @ \$12.50 per gallon.

\* The Pennsylvania Insurance Handbook said in 1860:—

"Philadelphia is indebted to Mr. Sherrerd for the introduction of the steam fire engine into practical use, as it was mainly owing to his exertions that the first engine was built for the Philadelphia Hose Company. The prejudice against such apparatus was very great at the time, owing to the failure of former experiments; but feeling confident of success, Mr. S. advanced the money to pay the contract entered into, and reimbursed his advances out of collections made by himself."



The warehouse, costing about \$300,000 to erect, was insured under perpetual policies as follows:—

Mutual Assurance Company, . . . . .	\$27,000
Philadelphia Contributionship, . . . . .	27,000
Girard, . . . . .	10,000
Fire Association, . . . . .	5,000
	<hr/>
	\$69,000

Insurances on the contents were:—

*Philadelphia Companies.*

Insurance Company of North America, . . . . .	\$127,000
Insurance Company of the State of Pennsylvania, . . . . .	84,500
Pennsylvania, . . . . .	63,000
Reliance, . . . . .	38,000
Enterprise, . . . . .	30,000
Fame, . . . . .	30,000
Union Mutual, . . . . .	30,000
Anthracite, . . . . .	22,500
Delaware Mutual, . . . . .	22,000
American, . . . . .	17,000
Girard, . . . . .	14,000
Phoenix Mutual, . . . . .	10,000
Franklin, . . . . .	8,000
Fire Association, . . . . .	5,000
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	501,000

*Pennsylvania State Companies.*

Reading, Reading, . . . . .	10,000
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*English Companies.*

Imperial, London, . . . . .	\$329,000
Liverpool and London and Globe, . . . . .	180,000
Royal, Liverpool, . . . . .	152,500
Queen, " . . . . .	56,000
North British and Mercantile, Edinburgh and London,* . . . . .	12,000
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	729,500

*New York City Companies.*

Germania, . . . . .	\$95,000
Hanover, . . . . .	60,000
Commercial, . . . . .	40,000
Metropolitan, . . . . .	31,000
Yonkers and New York, . . . . .	31,000
Niagara, . . . . .	30,000
Republic, . . . . .	29,000
Lorillard, . . . . .	26,000
Home, . . . . .	22,000
Excelsior, . . . . .	22,000
Atlantic, Brooklyn, . . . . .	20,000
Citizens', . . . . .	20,000
Baltic, . . . . .	16,000
Firemen's, . . . . .	15,000
Hope, . . . . .	15,000
North American, . . . . .	15,000
Tradesmen's, . . . . .	15,000
Relief, . . . . .	15,000
Commonwealth, . . . . .	10,000
Fulton, . . . . .	10,000
Howard, . . . . .	10,000
Mercantile, . . . . .	9,000
Corn Exchange, . . . . .	5,000
Ætna, . . . . .	5,000
Irving, . . . . .	5,000
Lenox, . . . . .	5,000
Market, . . . . .	5,000
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	581,000

\* An amalgamation of the North British Insurance Company (fire and life) of Edinburgh with the Mercantile Fire Insurance Company of London. It entered the United States in 1866.

<i>New York State Companies.</i>		
Western, Buffalo, . . . . .	\$36,000	
Albany City, . . . . .	20,000	
Buffalo City, . . . . .	20,000	
Commercial, Albany, . . . . .	19,000	
Glen's Falls, . . . . .	17,000	
Buffalo, of Buffalo, . . . . .	11,000	
Capital City, Albany, . . . . .	5,000	
		128,000
<i>Connecticut Companies.</i>		
Ætna, Hartford, . . . . .	\$53,000	
Merchants', Hartford, . . . . .	31,000	
Phoenix, . . . . .	27,000	
Home, New Haven, . . . . .	27,000	
North American, Hartford, . . . . .	25,000	
Hartford, " . . . . .	25,000	
Charter Oak, " . . . . .	17,000	
Norwich, of Norwich, . . . . .	15,000	
City, Hartford, . . . . .	10,000	
Connecticut, Hartford, . . . . .	8,000	
		238,000
<i>Baltimore Companies.</i>		
Maryland, . . . . .	\$38,500	
United States Fire and Marine, . . . . .	26,000	
Merchants and Mechanics', . . . . .	15,000	
National, . . . . .	10,000	
Associated Firemen's, . . . . .	5,000	
Monumental, . . . . .	2,500	
		97,000
Total, . . . . .		\$2,353,500

The buildings were insured, as shown, for but a small part of their value; the insurance on the whisky, as it stood at the time of the fire, was somewhat in excess of the value of the commodity. There was an aggregate amount insured for one firm of \$1,375,500, with their whisky in store rated at \$1,127,544.65. The aggregate loss on all the whisky was settled at about 85 per cent. of the aggregate insurance, and the total indemnification somewhat exceeded two million dollars.

So in nineteen years Philadelphia had changed, fire insurance-wise. At the widespread general conflagration of July 9-10, 1850, Philadelphia companies were probably the sole insurers, paying about the same amount for losses as they paid for losses by the fire of August 4, 1869, but in the latter fire sustaining only one-fourth of the insured loss.

Rates on the Patterson bonded warehouse contents had decreased, and the average premium on the whisky insurance was represented to be 55 cents. While, should it have been established that such rate was adequate for *one* of the whisky-filled sections *alone*, disconnected from all the others, it should have been clear to the judgment of the fire insurance rater that *another* section added to that one increased the risk of the first, and the *two* shared in the combined hazard; then a *third* section would further enlarge the combined hazard of the first two, and the tri-combination would, in hazard, be in advance of the bi-combination, and so on with successive additions. When the Philadelphia board first rated the Patterson warehouse, Section H had not been built; had it never been built, the fire of August 4, 1869, would not have occurred.

At time of burning of the Patterson warehouse, twenty-five local companies, besides the rural mutuals, were issuing fire insurance policies, and in addition to these a surreptitious concern called the Commercial was started to gather in premiums from outside the city. It disappeared in a few months. The Manufacturers' had closed its doors early in the year, after an ineffectual attempt to make some addition to whatever cash capital it might have, and the Kensington also, a month or two later. The most notable feature in the careers of these projects was the periods of their duration—the Manufacturers' operating from 1855, the Kensington from 1857. Among the twenty local exclusively fire offices existing in August, 1869, was a Manufacturers' Mutual Fire Insurance Company, which began in May of the previous year—note and cash premiums.

The total amount of losses paid by the Royal's agency from April 27, 1852, to September 1, 1869, was \$1,473,988, including claims arising from the great whisky fire. For the first eight months of 1869 the sum paid was \$223,808. In the previous experience of this agency the average annual loss payment was \$75,108 upon an annual average of \$13,298,928 of insurance written, with the insurances written being in the aggregate in the ratio of two dollars "non-hazardous" to one dollar "hazardous." In the one-third hazardous amount nearly three-fourths of the losses occurred. From April 27, 1852, to December 31, 1868, the aggregate insurances written and the aggregate losses incurred were as follows:—

	Insurance.	Losses.	Loss per \$100 of insurance.
Non-hazardous risks, . . . . .	\$149,450,117	\$338,029	\$0.23
Hazardous risks, . . . . .	72,198,742	912,151	1.26
	<u>\$221,648,859</u>	<u>\$1,250,180</u>	<u>\$0.56</u>

This was an experience resulting from the largest volume of temporary Philadelphia fire risks as yet aggregated in a single organization. The 56 cents of loss per \$100 of aggregate insurance was not strictly *per annum* as the average term of the policies as written, renewed and cancelled, but it was approximately the rate of loss per year of the insurances in the period comprehended; the non-hazardous risks predominantly producing the general result. Rates on special hazards in Manager Wood's agency closely followed the fire loss occurrence and recurrence, with the grade of the hazard classed according to the determinations arising from the surveys instituted. Various circumstances, applying generally to the conditions of fire underwriting, caused fluctuations in rates during the nearly seventeen years, but the mean of all the premiums charged on each of certain general classes of risks, or specified risk aggregations, during the period was as follows:—

## SIXTEEN YEARS AND EIGHT MONTHS

Classes or Designations of Risks, (separate or combined.)	Average Rate of Premium.
Dwellings, churches, and contents, . . . . .	.51
Merchandise and warehouses, . . . . .	.56
Breweries, . . . . .	1.16
Lumber yards and ships on stocks, . . . . .	1.21
Printing offices and book binderies, . . . . .	1.31



Soap, candle, and Japan works, . . . . .	1.61
Petroleum and products, . . . . .	1.72
Stables, barns, and contents, . . . . .	1.78
Machine shops and foundries, . . . . .	1.78
Flour and drug mills, . . . . .	2.02
Chemical, dye, and print works, . . . . .	2.14
Distilleries and sugar refineries, . . . . .	2.20
Cotton and woolen factories, . . . . .	2.38
Collieries, . . . . .	2.68
Wood workers, saw mills, etc., . . . . .	3.72

Miscellaneous hazardous risks [between the machine shop and the flour mill,] . . . . .	1.83
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This represents no scale of either theoretic premiums or actual charges, but a periodic average premium realization on at least fifty different degrees of hazard here grouped.

In fire insurance, simply as coming to the conditions of the market, but discharging its obligations, in a decade of years, the rule of extent of fluctuation is approximately for the maximum rate to attain to double the minimum. Thus, the minimum rate reached on a given class of risks being \$2.50 per annum and the maximum \$5.00, more or less than the mean of these extremes, \$3.75, would be realized according as the greater proportion of risks written in the decade ascends towards the maximum rate, or descends towards the minimum.

The average premium receipt of the Philadelphia agency of the Royal was, as for policy term, in the period named, 1.06 per cent. With this average as the measure of the gross premium receipts, the losses occurring are shown to have been equal to 53.2 per cent. of the premium received.

With the number of steam fire engines now in service, and fires occurring in the city at the rate of about one and a half per day, the water damage to goods and the neglect of rescued property were increasing elements of loss. Drowning out the fire and deluging fire-exposed objects continued to be the method of water application in the fire extinguishment, and this was done in connection with the forcing open of doors and windows to let in a free circulation of air and afford outlets to the stifling smoke. The world which was *to be* destroyed by fire *had been* devastated by the deluge. The fire underwriters of the city desired to be saved from the flood, especially as the margin between policy sums and amounts of loss on fire-assailed risks constituted whatever profit might exist in the insurance, *per se*, after fire cost and expenses had been liquidated. Accordingly a fire salvage corps had been projected, though against the project were two principles: 1. Underwriters are not salvors from loss, but indemnifiers of loss through the premium collection. 2. Whatever diminishes fire loss diminishes the rate of premium. But, while in fire insurance as a business fires are but stock in trade, fire insurance as a *science*, or at least as an enlightened empiricism, searches out the causes, conditions, nature and measures of destructive fire occurrence—the metes and bounds thereof—and according to its ascertainments is the way opened towards further limitations of fire destruction, hindered, as the progress may be, by multiplying causes of

ignition and subjects of combustion. It is in this respect with the fire underwriter as with the physician who receives his professional remuneration through the occurrence of disease, yet the physician's pathology points towards the sanitary measures which aim to mitigate sporadic malady and check the progress of epidemic. Further, from the mere business standpoint, enhancement of salvage extended the insurability of risks as fire underwriting was practiced. The fire jeopardy, always a problem, was measured as much by apprehension as by calculation, and as the registers of the insurer taught him to estimate high ratio of loss, the lines written diminished in the individual policy until the ratio of loss became prohibitive in insurance practice. To reduce fire-insurance loss, as interpreted by courts, by rescuing property from part of the damage currently attendant upon fire, apart from combustion, not only saved from loss, but added to the policy salvage through the enlargement of the policy sum. There was gain in an instrumentality which, in some degree, enabled the fire underwriter, instead of writing down to the fire-loss line, to write above it.

A meeting of representatives of fire insurance companies interested in what was called a fire insurance patrol was held at the office of the Insurance Company of North America, June 12, 1869,—Charles Platt, chairman, John Wilson, Jr., secretary,—and it was agreed to organize such a patrol, to operate within the limits of Girard avenue on the north, and Washington avenue on the south, Broad street on the west, and the Delaware river on the east. The basis adopted for the initial expenses was assessments rated by the premium receipts of the associated companies and agencies in the patrol district in the year 1868. July 12, 1869, the following board of directors was elected:—Atwood Smith, president, Alfred G. Baker, treasurer, John Wilson, Jr., secretary, Charles Platt and Conrad B. Andress; to which directors Samuel Sparhawk and William G. Crowell were afterwards added. The object defined by the constitution and by-laws adopted September 20, was “to protect and save life and property in or contiguous to burning buildings, and to remove and take charge of such property, or any part thereof, when necessary.” As the members of the first Philadelphia salvage corps, which had no insurance connection, were provided in 1810 with baskets to carry out perilled goods to a wagon, the patrolmen of 1869 were provided with coverings, impervious to water, for such goods. Among the duties assigned to the chief or captain of the patrol was the recording of all fires and such transactions as might occur under his supervision as chief of the fire patrol. “He shall take charge of property damaged, or exposed to damage; *when so ordered*, shall employ watchmen or laborers to protect the same, and to extinguish fires in ruins after the fire department has abandoned them, and as soon as possible report his action to the president or one of the members of the board.” Oiled covers adopted were such as used by the New York patrol, 21 by 18 feet wide; and there was provided, also, a supply of axes and other implements, wagons and horses. T. McCusker was elected captain of the patrol. Monthly reports of fires attended gave the number of the alarm box, location of fire, style of building, occupancy, insurance on building and contents respectively, and total

loss, with cause of fire. First report, July, 1869. Subsequent reports added the name of the occupant and number of covers spread. Later, building loss and content loss were discriminated.\*

At the close of 1869 the Philadelphia Insurance Company ended its career, in which it had, in succession, tried in vain to become a health, a life, and a fire insurance company. The Girard Fire was established, and up to this date had paid \$746,940.05 for losses. Its ratios of losses to premiums for the three years just terminated were: 1867, 27 per cent.; 1868, 30 per cent.; 1869, 49 per cent. It was the fate of the Fame to increase its premium receipts 63 per cent. under the fire conditions of 1869, and the Patterson warehouse fire made its losses double what they would have otherwise been in the year. The capital paid in of the Fame was now \$195,150, and such capital was impaired. Fire Marshal Blackburn reported the loss in Philadelphia's greatest fire year at \$5,067,125 (with 623 fires), \$4,172,304 of insurance paid;—the least monthly loss was in March, \$45,181, in 38 fires. For three months of the year the fire marshal's loss and insurance account was as follows:—

<i>1869.</i>			
	No. of fires.	Loss.	Insurance.
January, . . . . .	51	\$ 822,731	\$ 638,241
August, . . . . .	58	2,485,583	2,265,355
December, . . . . .	43	521,637	454,591
	<u>152</u>	<u>\$3,829,951</u>	<u>\$3,358,187</u>

In these three months only, the disastrous 1866 was exceeded, and there was in such months an average loss per fire of \$25,197, and no general conflagration! Would the future be as calamitous as the portents were threatening? The marine-fire offices were, as a rule, plucked from the burning by the saving power of their marine risks this year, but the following shows breaches made in insurance strongholds:—

*Net Surplus—December 31.*

	<i>1868.</i>	<i>1869.</i>
American, . . . . .	\$335,455	\$328,030
Insurance Co. of the State of Pennsylvania, . . . . .	150,447	79,312
Pennsylvania, . . . . .	358,855	268,915

The office of the People's Fire Insurance Company was yet kept open, and early in 1870 there was a newspaper story about the "flight of the president," Gustavus Paul, who, according to the wonderful account, had absconded "with nearly \$100,000 from the treasury of the company." Whether there was anything for Paul or anybody else to take, did not appear, but the People's Fire kept on its way and "adjusted" losses. Paul was absent from the country at

\* The act to incorporate the Philadelphia Insurance Patrol was approved February 17, 1871.

SEC. 4. The said corporation shall have power to provide suitable places for the transaction of its business, and also to provide a patrol of men and a competent person to act as superintendent, with suitable apparatus to save and preserve life or property at or after a fire; and the better to enable them so to act with promptness and efficiency, full power is hereby given to such superintendent, and to such patrol, to enter any building on fire, or which may be exposed to, or in danger of, damage from fire and water, and at once proceed to protect and endeavor to save the property therein, and to remove such property, or any part thereof, during or after such fire; nothing in this act, however, shall warrant an interference with the orders of the chief engineer of the fire department in reference to the action of the firemen in their duties in extinguishing a fire: *Provided*, That nothing herein contained be construed to affect or interfere with the power or duties of the officers of the police department of the city of Philadelphia, at fires occurring within the limits of the said city.



the time the rumor was circulated, had sold out all his interest in the People's, and never returned.

Under the title An Act to prevent the Issue of Unauthorized Policies of Insurance, the right of the personal citizen of the State to engage in the business of fire and lightning insurance on his own account as "inherent and indefeasible," was prohibited; this enactment, approved February 4, 1870, being placed among the statutes of Pennsylvania:—

SECTION 1. Be it enacted, etc., That it shall be unlawful for any person, partnership or association, to issue, sign, seal, or in any manner execute any policy of insurance, contract or guaranty, against loss by fire or lightning, without authority expressly conferred by a charter of incorporation, given according to law, and every such policy, contract or guaranty, hereafter made, executed or issued, shall be void.

SEC. 2. That any person offending against the provisions of this act, or any person who shall make, execute or issue any policy of insurance, contract or guaranty, against loss by fire or lightning, without being so authorized by law, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall pay a fine not exceeding two hundred dollars to the commonwealth, and the costs of prosecution; one-half of said fine shall be for the use of the informer: *Provided*, That nothing herein contained shall apply to any insurance company authorized by the laws of any other State to issue policies and effect insurance against loss by fire or lightning, which shall have complied with the laws of this commonwealth with respect to foreign insurance companies.

By the United States census of 1870 there were 112,336 buildings in the city, occupied wholly or partly as residences, which would make an average of 6 persons to a residence. Estimating these structures with their contents at \$2,000 per building, an aggregate value of \$224,672,000 was indicated. The sum of \$300,000,000 is not apparently too high an estimate for the value of all the non-mercantile and non-manufacturing *buildings* of the city at the time. Upon such buildings there was an aggregate perpetual insurance of about \$175,000,000. It may therefore be said that there were \$300,000,000 of fire-destructible property having a normal average *property* fire cost of 5 cents per annum per \$100 of value, or \$150,000. Then \$200,000,000 of merchandise and containing buildings burning at the rate, per \$100, of 30 cents per annum, made the yearly cost of mercantile fires \$600,000; and manufacturing property, \$175,000,000, burning at the average rate of 90 cents, consumed in a year \$1,575,000. At approximately these ratios Philadelphia was burning in 1870; but \$675,000,000 of general combustible property burning at the rate of 34 cents per annum per \$100, does not represent the ratio at which aggregate *insured* property burns, as has been before shown. (The value, as assessed for taxes in 1870, of Philadelphia property was: real estate \$470,851,800, personal estate \$44,664,158; total \$515,515,958.)

There were, by the census returns, 8,184 manufacturing establishments in the city in 1870, involving a capital of \$174,016,674, using 1,611 steam engines and 59 water wheels, employing 137,496 hands, young and old, of both sexes, with value of production during the year summing up, as stated, to the amount of \$322,004,517. If one-tenth of such production should be fire exposed in the establishments on any given day, such tenth would make up depreciation in value of plant from original cost as a question of value fire exposed.

Out of 256 kinds of manufacturing production, as classified, 66 had respectively annual production in excess of \$1,000,000. These 66 classes of industry

embraced 4,575 establishments, with \$134,247,430 of capital and \$253,723,438 of annual production. The enumeration, with the crude classification, was as follows:—

INDUSTRIES.	Estab- lish- ments.	Number of employés.	Capital.	Value of production in 1870.
Bleaching and dyeing, . . . . .	75	709	\$ 819,900	\$ 6,927,053
Bookbinding, . . . . .	70	1,734	1,557,557	3,362,395
Boots and shoes, . . . . .	200	6,864	3,269,302	9,231,348
Bread and other bakery products, . . . . .	531	1,619	1,287,625	3,781,184
Bricks, . . . . .	89	3,080	2,294,500	3,112,906
Carpets, other than rag, . . . . .	177	4,814	2,911,300	9,625,141
Carriages and wagons, . . . . .	115	1,603	1,838,097	2,281,361
Cars, freight and passenger, . . . . .	9	1,500	1,581,000	2,385,469
Clothing, men's, . . . . .	506	13,073	7,415,459	16,429,067
Coal oil, refined, . . . . .	15	207	792,000	1,404,582
Coffee and spices, ground, . . . . .	16	171	377,800	1,299,235
Confectionery, . . . . .	166	803	845,250	2,014,711
Cooperage, . . . . .	73	695	391,515	1,111,340
Cotton goods (not specified), . . . . .	66	6,108	6,042,440	8,272,698
Drugs and chemicals, . . . . .	73	1,270	4,383,200	7,023,711
Fertilizers, . . . . .	12	341	1,405,000	1,485,452
Flouring-mill products, . . . . .	23	195	624,500	4,822,228
Frames, mirror and picture, . . . . .	33	565	528,850	1,034,853
Furniture (not specified), . . . . .	205	2,618	2,760,205	4,773,301
Gas, . . . . .	2	1,143	7,900,000	3,004,375
Gas and lamp fixtures, . . . . .	9	919	1,134,894	1,171,783
Glassware, . . . . .	8	1,174	1,038,016	1,365,643
Hats and caps, . . . . .	51	1,125	564,575	1,688,306
Heating apparatus, . . . . .	27	342	511,580	1,197,066
Hosiery, . . . . .	72	4,702	2,871,900	5,164,405
Iron, forged and rolled, . . . . .	11	1,046	1,493,500	2,970,492
“ bolts, nuts, washers, etc., . . . . .	17	770	900,100	1,392,132
“ pipes, wrought, . . . . .	3	859	3,100,000	3,305,760
“ castings (not specified), . . . . .	63	2,551	3,844,424	5,226,459
“ stoves, heaters, etc., . . . . .	9	980	2,270,000	1,678,532
Jewelry (not specified), . . . . .	49	628	836,850	1,455,741
Leather, tanned, . . . . .	23	337	1,003,172	1,651,643
“ curried, . . . . .	32	205	354,528	1,294,288
“ morocco, tanned, etc., . . . . .	24	995	1,324,778	3,190,041
Liquors, distilled, . . . . .	28	182	1,066,000	1,940,255
“ malt, . . . . .	57	648	3,325,850	3,380,613
Lumber, sawed, . . . . .	10	197	932,890	1,116,946
Machinery (not specified), . . . . .	107	3,623	5,470,710	5,841,886
“ cotton and woolen, . . . . .	26	853	1,583,800	1,436,449
“ locomotives, . . . . .	3	2,178	2,275,000	3,490,279
“ engines and boilers, . . . . .	30	1,098	1,582,241	2,450,224
Malt, . . . . .	8	149	875,000	1,063,500
Marble and stone work (not specified), . . . . .	88	1,394	2,004,500	3,071,709
Meat, cured and packed, . . . . .	13	200	1,861,000	4,300,802
Molasses and sugar, refined, . . . . .	14	1,154	5,494,000	25,949,876
Oil, animal, . . . . .	9	53	382,000	1,049,000
Paints, lead and zinc, . . . . .	16	369	1,273,250	2,479,408
Paper, printing, . . . . .	5	607	2,050,000	1,245,711
Patent medicines, . . . . .	43	365	1,526,084	6,101,592
Pork, cured and packed, . . . . .	7	97	801,000	2,028,800
Printing of cloths, . . . . .	6	673	1,495,000	5,713,584
Printing and publishing (not specified), . . . . .	76	3,115	7,703,500	10,107,451
“ job, . . . . .	76	734	714,800	1,041,714
Saddlery and harness, . . . . .	87	614	588,600	1,135,453
Sash, doors and blinds, . . . . .	45	751	1,047,835	1,656,438
Saws, . . . . .	8	619	760,500	1,037,700
Ship building and repairing, . . . . .	32	648	962,800	1,085,177

INDUSTRIES.	Establish- ments.	Number of employés.	Capital.	Value of production in 1870.
Silk (not specified), . . . . .	8	817	\$1,254,000	\$1,332,900
Soap and candles, . . . . .	52	594	1,372,200	2,490,941
Steel, cast, . . . . .	6	523	1,450,000	1,858,250
Tin, copper, sheet-iron ware, . . . . .	219	1,284	328,643	2,096,543
Tobacco, cigars, . . . . .	391	1,680	963,140	2,112,521
Umbrellas and canes, . . . . .	22	1,348	1,013,982	2,044,726
Upholstery, . . . . .	77	671	564,638	1,222,094
Woolen goods,* . . . . .	123	7,528	8,101,050	17,943,826
Worsted goods, . . . . .	29	3,724	3,149,600	7,762,369
66 Industries, . . . . .	4,575	104,235	\$134,247,430	\$253,723,438

\* Exclusive of hosiery, "carpets other than rag," and worsted goods.

Here the fire cost ranged from 50 cents per annum per \$100 in the case of currying leather, 75 cents hat and cap manufacturers,  $1\frac{1}{2}$  per cent. sugar refinery with use of lampblack (having the highest average loss per fire), through 4 per cent. for the shoddy picker house, up to the culminating hazard of the still in the "coal oil" refinery.

With such temporary experiments as the United States Fire and Marine, of Baltimore, and the Lumbermans, of Chicago, discontinuing, and with agency in other cases being transferred from one party to another, the Philadelphia fire agency list was undergoing continuous change, but in the autumn of 1870 it stood about as follows:—

#### AGENCIES OF OTHER-STATE FIRE INSURANCE COMPANIES.

Ætna, Hartford, . . . . .	Boswell & Co.
Ætna, New York, . . . . .	William Arrott.
Albany City, N. Y., . . . . .	M. D. Evans.
Andes, Cincinnati, . . . . .	Duy & Woods.
Arctic, New York, . . . . .	William Arrott.
Astor, " . . . . .	E. Franssen.
Atlantic, Brooklyn, N. Y., . . . . .	Sabine, Allen & Dulles.
Atlantic Fire and Marine, Providence, R. I., . . . . .	Tillinghast & Hilt.
Buffalo City, N. Y., . . . . .	T. J. Lancaster.
Capitol City, Albany, N. Y., . . . . .	Kingsland & Hawley.
Charter Oak, Hartford, . . . . .	R. O. Lowry.
Citizens, New York, . . . . .	Kingsland & Hawley.
City, Hartford, . . . . .	John Wilson, Jr.
Cleveland, Cleveland, O., . . . . .	Kingsland & Hawley.
Columbia, New York, . . . . .	Sabine, Allen & Dulles.
Commerce, Albany, N. Y., . . . . .	R. O. Lowry.
Commerce, New York, . . . . .	S. R. Hilt.
Commonwealth, New York, . . . . .	Harper & Cheppu.
Connecticut, Hartford, . . . . .	F. O. Allen.
Continental, New York, } . . . . .	William Arrott.
Corn Exchange, New York, }	
Enterprise, Cincinnati, O., . . . . .	Scull & Newbold.
Excelsior, New York, . . . . .	T. J. Lancaster.
Firemen's, " . . . . .	M. D. Evans.
Firemen's Fund, San Francisco, Cal., . . . . .	Rowand & Shattuck.
Fulton, New York, . . . . .	T. J. Lancaster.
Germania, New York, . . . . .	George Kraeutlet.
Glen's Falls, New York, . . . . .	Duy & Woods.
Guardian, " . . . . .	Kingsland & Hawley.
Hanover, " . . . . .	S. R. Hilt.



Hartford, Conn., . . . . .	W. D. Sherrerd & Co.
Hide and Leather, Boston, . . . . .	Kingsland & Hawley.
Home, Columbus, O., . . . . .	Sabine, Allen & Dulles.
Home, New York, . . . . .	W. D. Sherrerd & Co.
Home, New Haven, Conn., . . . . .	Tillinghast & Hilt.
Hope, New York, . . . . .	Duy & Woods.
Howard, New York, . . . . .	E. Franssen.
Humboldt, New York, . . . . .	T. J. Lancaster.
Independent, Boston, . . . . .	Duy & Woods.
International, New York, . . . . .	W. D. Sherrerd & Co.
Irving, New York, . . . . .	E. Franssen.
Lamar, " . . . . .	W. D. Sherrerd & Co.
Lenox, " . . . . .	Kingsland & Hawley.
Lorillard, New York, . . . . .	T. J. Lancaster.
Manhattan, " . . . . .	W. D. Sherrerd & Co.
Market, " . . . . .	E. Franssen.
Maryland, Baltimore, . . . . .	Duy & Woods.
Mercantile, New York, . . . . .	T. J. Lancaster.
Merchants', Chicago, . . . . .	Kingsland & Hawley.
Merchants', Hartford, . . . . .	John Wilson, Jr.
Merchants', Providence, R. I., }	Sabine, Allen & Dulles.
Metropolitan, New York, }	
Monumental, Baltimore, . . . . .	T. J. Lancaster.
Narragansett, Providence, R. I., . . . . .	Boswell & Co.
National, Baltimore, . . . . .	W. D. Sherrerd & Co.
New Amsterdam, New York, . . . . .	E. Franssen.
Niagara, " . . . . .	William Arrott.
North American, " . . . . .	Rowand & Shattuck.
North American, Hartford, . . . . .	John Wilson, Jr.
Norwich, Conn., . . . . .	William Arrott.
Occidental, San Francisco, . . . . .	Boswell & Co.
People's, Worcester, Mass., . . . . .	M. D. Evans.
Phoenix, Hartford, . . . . .	Boswell & Co.
Phenix, Brooklyn, N. Y., . . . . .	W. D. Sherrerd & Co.
Providence-Washington, Providence, R. I., . . . . .	Sabine, Allen & Dulles.
Putnam, Hartford, . . . . .	W. D. Sherrerd & Co.
Relief, New York, . . . . .	T. J. Lancaster.
Republic, New York, . . . . .	R. O. Lowry.
Resolute, " . . . . .	T. J. Lancaster.
Roger Williams, Providence, R. I., . . . . .	John Wilson, Jr.
Security, New York, . . . . .	W. D. Sherrerd & Co.
Springfield, Mass., . . . . .	John Wilson, Jr.
Standard, New York, . . . . .	W. D. Sherrerd & Co.
Tradesmen's, New York, . . . . .	M. D. Evans.
Union, San Francisco, }	William Arrott.
Washington, New York, }	
Western, Buffalo, N. Y., . . . . .	T. J. Lancaster.
Yonkers and Northern New York, N. Y., . . . . .	William Arrott.

## AGENCIES OF STATE COMPANIES.

Farmers' Mutual, York, . . . . .	William Arrott.
Lancaster, Lancaster, . . . . .	W. N. Kremer.
Lycoming, Muncy, . . . . .	William H. Whittall.
Reading, Reading, . . . . .	M. D. Evans.
Williamsport, Williamsport, . . . . .	Rowand & Shattuck.
Wyoming, Wilkes-Barre, . . . . .	Sabine, Allen & Dulles.

## AGENCIES OF FOREIGN COMPANIES.

Imperial, London, . . . . .	Prevost & Herring.
Liverpool and London and Globe, Liverpool, . . . . .	Atwood Smith.
North British and Mercantile, Edinburgh, . . . . .	W. D. Sherrerd & Co.
Queen, Liverpool, . . . . .	Sabine, Allen & Dulles.
Royal, " . . . . .	George Wood.

The juror as a fire-loss adjuster was an established vexation of contesting insurers. In the District Court, this year, such "judge of the facts" was the subject of judicial review, which was in accordance with the tenor of insurance

opinion on the subject. In one case, Stroud, J., in setting the verdict aside and granting a new trial, said:—

The verdict here was very high; not, however, to such an extent that, on the score of *excessiveness* alone, we would feel warranted to set it aside. But we look upon the conduct of the jurors as calling upon us for a marked condemnation, and we think it should be dealt with in such a way as most likely to deter and prevent a similar occurrence.

The conduct was as follows.

It has been clearly shown that during a short recess allowed by the court whilst the cause was still on trial, several of the jurors went to a restaurant kept by a person chiefly, if not solely, interested in the verdict, and there partook of refreshments, for which they neither made nor were asked to make any compensation. It did not appear with certainty by whom the refreshments were furnished, but there is no doubt that they were not paid for. (7 Phila., 167.)

In another case the jury did not suspiciously visit a restaurant, but in the problem as to the difference between fire loss as a fact and fire loss as a claim, the jury computed on the side of the claim. Almost after the manner of a professional fire-loss adjuster was this discourse by the court:—

Hare, P. J.: . . . . . The story of the plaintiffs was, that the stock of wheat and flour covered by the insurance was more than doubled during the two months which separated the execution of the policy from the loss. Their testimony on this head proved, when sifted, to be mere vague assertion, aptly designated by one of them as a guess. It was a suspicious circumstance that no documentary evidence was produced at the trial in corroboration of the alleged purchases. The absence of the bills was accounted for on the ready hypothesis that they had been destroyed by the fire, but this did not explain the failure to give the names of the vendors with whom the plaintiffs dealt, and have them in court. . . . . The stock in the mill was valued at \$1,300 in the survey taken on behalf of the defendants when the insurance was effected, and there is no conclusive proof that it decreased. To this extent the verdict is not against the evidence, and the rule will be discharged on the entry of a *remittitur* for the excess. (8 Phila., 29.)

A statement made by the People's Fire Insurance Company for date of December 31, 1870, gave as assets \$128,851.78; receipts for the year \$31,598.16—including \$4,413.20 interest account; paid out \$18,241.88. "No losses due and unpaid."

Increase of non-State companies was not attended with increased aggregate premium. With more companies in 1870 than in 1869, the taxed premium receipts of 1870 fell off, as compared with 1869, more than two hundred thousand dollars in the State; excessive competition checked a high loss-ratio in its normal tendency to enhance premium. Such a condition was calculated to augment the percentage of sharp adjustments, and, in consequence, the percentage of litigation; and where liberal payments had been the rule, there was an enforced check upon such liberality. Contesting non-State companies looked to the United States courts for a better adjudgment of their rights than had occurred in the State courts. In the Supreme Court at Nisi Prius, on petition for removal of cause from State to Federal court (*Newhall vs. the Atlantic Fire and Marine Insurance Company*), the decision was as follows:—

Sharswood, J.: A petition has been filed in this and a large number of other actions of the same character, on behalf of the defendants, for an order of removal to the Circuit Court of the United States for this district. The defendants are a foreign insurance company doing business under act of assembly of April 11, 1868, and required to "appoint an agent or attorney, resident in this State, on whom process of law can be served." It is contended that . . . . . they have thereby waived their constitutional right as citizens of another State of having their controversies with citizens of this State decided by the

Federal courts. The act of assembly certainly does not create such companies corporations of this State. . . . An agreement to submit to lawful process within the territorial limits of Pennsylvania is certainly implied, but is all that is implied. . . . It has been held by the Supreme Court, in the Commonwealth *vs.* Pittsburgh and Connellsville Railroad Company, (8 P. F. Smith, 26,) that the Circuit Court of the United States is a court of this State. It administers justice according to the laws of this State as construed and settled by its own Supreme tribunal. . . . If the constitution of the United States and the acts of Congress have conferred upon the Federal courts jurisdiction, there is nothing in the acceptance by them [the defendants] of a license granted to them by the act of assembly which can or ought to oust it. Petition granted. (8 Phila., 106.)

The last report of Fire Marshal Blackburn (he died November 30, 1871,) recorded 639 fire outbreaks in the city in 1870; total losses \$2,477,933, insurance paid in the year \$1,994,356. Fifty-eight persons were arrested on suspicion of incendiarism, and eleven convicted. The fire marshal stated that the worst fire was that of the Pennsylvania sugar refinery, July 26, Race and Crown streets, at which several firemen lost their lives and whole blocks of valuable property were threatened; cause was accidental; loss about \$750,000. The fire which spread over the greatest space began at the planing and plaster mill of Smith & Harris, at Coates and Beach streets, September 7; loss \$150,000. At the burning of a planing and saw mill, June 5, next year, Marshall street, below Girard avenue, about forty buildings were damaged.

In this flaming time the one hundred and thirty-four years' existence of the volunteer fire department terminated. By report of Chief Engineer Downey for 1870, there belonged to this department 44 steam engines, 7 hand engines, 112 hose carriages, 11 trucks, 86 horses, 78,980 feet of forcing hose, 1,127 feet of suction hose, 2,365 feet of ladders, 78 hooks, 2,553 active members. The ordinance creating a paid fire department passed December, 1870; a board of fire commissioners was organized January 3, 1871, and the new department went into operation March 15, with a better discipline and more orderly method than had prevailed, but with old ideas as to fire extinction still operative.

Another collector of outside fire premiums, called the Home Insurance Company of Philadelphia, disappeared in March, 1871. It was started *somewhere* in the previous year. Two verdicts just rendered in the District Court on claims against the Guardian Fire and Marine, contributed to make 1871 the terminal year of that enterprise. Before this, in the spring of 1869, one Lynch had brought suits to recover 36 lots of land in Flushing, L. I., alleged to have been conveyed to this company in exchange for the company's stock to the amount of \$19,300 and the additional sum of \$2,500—such stock not having been found to have any discernible market value. Later in 1869 the company reported to the Pennsylvania auditor-general the cash value of the capital stock at \$39,861. The Guardian was authorized to do business in Iowa, July 6, 1869, where it appeared with a capital paid up of \$155,937.50, and assets to the value of \$164,716.39—one item of which assets was "loans secured by first mortgage on real estate \$120,237.50"; "(see schedule A)."

April 17, 1871, an act was approved authorizing the Courts of Common Pleas of the commonwealth to incorporate mutual fire insurance companies "without a capital stock."



With the termination of the organization of volunteer fire extinguishers, the Fire Association as a firemen's insurance company was in an anomalous position; accordingly, a supplement approved May 5, 1871, was procured to the charter of 1833, changing the proprietary character of the body, appropriating assets, and making a stock capital, as follows:—

SECTION 1. Be it enacted, etc., That the following fire engine and hose companies of the city of Philadelphia, viz.: [twenty-eight engine companies and twenty hose companies,] composing at the time of the passing of this act, the Fire Association of Philadelphia, and proprietors of the capital stock thereof, be and are hereby created and declared to be one body politic and corporate, by the name, style and title of the Fire Association of Philadelphia, etc.

SEC. 2. The capital stock of the Fire Association of Philadelphia shall consist of ten thousand shares of fifty dollars each. The present capital stock shall be distributed *pro rata* to and amongst the several companies now composing the association, to be held by them and their successors or assigns; and in case any company shall desire or prefer to maintain its existence as a company, it may be represented at all meetings of the stockholders by a person duly accredited as such, and such person shall be entitled to represent or vote on as many shares as the company represented by him shall hold.

SEC. 8. The shares of the stock of the said corporation shall be assignable or transferable according to such rules and regulations as the president and directors thereof shall for that purpose ordain and establish, and not otherwise: *Provided*, That no person or persons shall hold or be owners of said stock who are not citizens of or residents in the United States; and if any transfer be made to any such person or persons, the same shall be, to all intents and purposes, null and void: *Provided further*, That no owner of stock indebted to the corporation shall be permitted to make a transfer of said stock, or receive a dividend thereon, until such debt be discharged or satisfactory security be given to the board of directors for the same.

SEC. 12. That the act passed the third day of April, 1833, entitled "An Act to incorporate the Trustees of the Fire Association of Philadelphia," and all supplements thereto, inconsistent herewith, be and the same is hereby repealed.

A supplement had been approved April 26, 1870, to the act of April 13, 1859, incorporating the Protection Fire Insurance Company, whereby other corporators were added, and whereby, also, "the company shall have the right to change its name at any time." The name was changed to Teutonia in August, 1871. This Teutonia was one of two corporate suggestions of *das deutsche Vaterland*, projected by the members of a dissolved agency firm. One, the German, incorporated March, 1871, and aiming at a cash capital of \$100,000, began business April 1, 1871; president, Charles P. Bower, secretary, O. Bardenwerper. The Teutonia collecting some cash capital on subscriptions to the stock, began September 1; president, William J. Horstmann, vice-president, E. Franssen, secretary, Julius Hein.

An office building of Pictou stone, at the south-west corner of Walnut and Fourth streets, had been erected and completed by the Enterprise Insurance Company before October. In the eleven years ended December 31, 1869, the losses of the Enterprise were but 30 per cent. of the premium receipts, though caught in the fiery sweep of 1866 with expanding agency departments. To use the favorite word which is presumed to explain fire underwriting success, the Enterprise was the "luckiest" of fire offices. In the eighteen months from January 1, 1870, to June 30, 1871, the premiums were \$239,127.76, the losses \$44,597.10. The assets at the latter date were \$642,716.46, and the interest receipts from January, 1859, were \$223,282.30. Commenting upon

the augmentation of the company's ventures in the agency field, which had been checked by the experience in 1866, the *American Exchange and Review* said, in view of the enhanced percentage of loss to be anticipated, that,

With the degree of security which the office has gained, it now enters other States for a share of the general business; distributing its responsibility and having the advantage of greater opportunities, nothing short of a general calamity will be likely to impede its success. Its stockholders have this assurance, at least, that there is no more danger abroad than in its own city. An uncontrollable fire may happen anywhere.

Just as these commonplace words, with their every-day thought, were issued from the press, the telegraph was transmitting the swift intelligence of a burning city. It was not Philadelphia any more than Boston. The flames were consuming Chicago through hours of night and day of October 8 and 9, 1871.\* The Enterprise was there in its insurance responsibility, and the question no longer was rate of loss to premium, but rate of loss to assets, and the greater part of the assets were withdrawable deposits on perpetual risks on Philadelphia buildings. So far as the perpetual policyholders were concerned, it was infinitely better that the fire should have occurred in Chicago than in Philadelphia, and practically the future of the Enterprise was in their hands.

Fire in one city attained to something of the proportions of a general calamity.

After the confusion of the first consternation had subsided, and there began to be gleams as to what companies would be saved and what lost, 32 other-State corporations with policies on Philadelphia property, covering about

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\* This conflagration continued for twenty-eight hours before abating in destructiveness. Rapidity of combustion was its most marked characteristic, and it was attended with striking phenomena of evolved inflammable gases. With the intensity of the heat, stone disintegrated and crumbled more rapidly than wood was consumed. It began at 10 P. M. in a cow stable, in the West division of the city, with a strong gale blowing from the south-west, which carried the flame to the North division—a wooden section. The area burned over was 2,124 acres, or nearly  $3\frac{1}{2}$  square miles—73 miles of streets—forming a parallelogram whose width was about one-third its length. The fire was least destructive in the quarter of its origin—the West division. Number of buildings with contents burned was variously enumerated from 13,400 to 25,000, six-tenths in the North division, about nine-tenths of the buildings therein being destroyed (including 600 stores and 100 manufactories)—1,500 acres burned over. Included in the approximately 3,000 buildings destroyed in the South division were (lowest estimate) 1,600 stores, 28 hotels, and 60 manufactories. In the West division about 1,000 buildings (lowest estimate) were burned. In the burned district 39 churches were consumed, nearly all the banks, and the most prominent business blocks. Fire Marshal Williams estimated the total loss at \$190,526,500, or \$7,621 per building; he placing the number of buildings destroyed at 25,000: Total loss on buildings was enumerated by the fire marshal at \$52,000,000—personal property \$138,526,500. Building loss on business blocks stated as \$33,515,000; on brick and frame dwellings and light business places, \$8,808,420, leaving \$9,676,580 to represent the value of all other real estate destroyed. Of the total loss on personal property, \$41,000,000 were assigned to household goods (an average of over \$2,000 for each burned personal occupancy), and to grain and flour \$1,332,500—five destroyed grain elevators contained 1,642,000 bushels of grain. "Stocks and business furniture" were counted at \$26,775,000, dry goods (merchandise) \$13,500,000; of manufactures—stock, machinery and products—the value given as lost was \$13,500,000, etc. Of total loss of contents \$58,710,000 were assigned to personal effects, and \$79,816,500 to business property.

As elsewhere, a fraction of the amount of insurance at risk in the burned district was carried by non-licensed companies. According to the excellent statistical tabulation of the Illinois bureau of insurance, (C. E. Lippincott, auditor of public accounts, William Stadden, compiler of the statistics,) 22 authorized Illinois companies had \$34,426,474 at risk in the burned district, 173 companies of other States \$59,389,524, and 6 companies of Great Britain \$6,409,782; in all, \$100,225,780 of insurance in 201 authorized companies. Only \$180,208 of the \$96,553,721 of losses claimed were resisted. Total capital and net surplus of the 201 companies, according to the official statement of asset values, were \$95,214,151. Of the 201 companies, 68 were bankrupted (besides those escaping collapse by the character of their settlements), 17 Illinois and 51 other-State companies insuring about \$24,000,000 in the district; the paid-up capital and net surplus of these, as represented, amounted to \$24,867,109. By May 31, 1872, it was ascertained that \$37,998,986 of the insured loss had been paid (with a salvage and discount on \$43,172,747 of loss claimed of \$5,173,761), and it was estimated that \$12,106,817 more would be paid, making a total of \$50,105,803, or 51.90 per cent. paid of the aggregate insured loss claimed. It was afterwards estimated that less than \$40,000,000 were paid in all. The six British offices paid 93.08 per cent. of the claims against them by May 31—more than one-half being paid by the Liverpool and London and Globe, *i. e.*, \$3,270,780.



forty million dollars, were found to be bankrupt. It was currently reported that the Chicago claims against the Enterprise could be settled for the amount of the company's capital—\$200,000; but perpetual policyholders beginning to demand their deposits, an assignment was made—the Philadelphia Safe Deposit Company being the assignee. Vice-president Montgomery had, on account of extreme ill health, temporarily withdrawn from his duties and sailed for St. Croix.

In the long period from 1752 to 1840 there had not been one fraudulent insurance organization started in the city. From 1850 dishonest attempts increased, though at times in the fluctuations fraud seemed to be approaching eradication. The Enterprise was a company conducted with an honest purpose, with a clean record, and had shown an ability to live and establish itself upon a permanent basis. By the doctrine that an insurance company has no right to fail, the qualified insurance official will always be guided; it can be said that the Enterprise had lived up to the doctrine to the extent of its management's capacity. Though all previous insurance failures in the city had not been the collapses of mere swindles, the departure of no office, excepting the Commonwealth, had been considered a loss to the community; but this termination of the Enterprise was recognized as a "public misfortune." Further than this, while the liability of a perpetual deposit company "to be run upon as a bank," had been matter of conjecture and criticism, in an experience reaching back one hundred and nineteen years this threatened emergency was now for the first time realized.

There was a panic among the insured in suspended non-State companies, excitement and dilemma among the agencies, and the replacing of the risks of embarrassed offices in unaffected companies made a rush and increase of policy writing and record that taxed the extent of existing and additional clerical force. The query, *Are you insured?* had a new emphasis. Non-American companies were high in public favor. The Liverpool and London and Globe, next to the Ætna, of Hartford, greatest loser outside of two swept-away Illinois offices, was an international insurer not to be affected disastrously by fire havoc in one locality. The Royal had a Chicago loss of comparatively the small matter of one hundred thousand dollars, more or less.

Apart from the Enterprise, and the results of a reinsurance contract with the Fame, the only financial problem involved as to Philadelphia offices, was the effect upon the net surpluses of the two greatest of these institutions writing fire policies. By Illinois account,\* subsequently made up, the Philadelphia insurances in the burned district and yet incomplete settlements were:

	Amount of risks.	Adjusted losses.	Paid.	Net surplus, Dec. 31, 1870.
Enterprise, . . . . .	\$461,400 00	\$404,817 15	. . . . .	\$ 14,436 39
Franklin, . . . . .	702,795 15	699,295 59	\$633,405 22†	1,094,368 39
Girard Fire and Marine, . . .	13,000 00	13,000 00	10,110 40	83,965 86
Ins. Co. of North America, . .	650,500 00	650,500 00	621,045 31	1,296,085 42
Ins. Co. of the State of Penn'a,	25,000 00	25,000 00	24,437 40	153,186 74

\* Fourth Annual Insurance Report of the Auditor of Public Accounts, of date of June 1, 1872.

† The semi-centennial celebration address of President Alfred G. Baker states total amount paid as \$635,429.39.



At date of October 14, the Insurance Company of North America computed its net surplus at \$981,307.98, after providing for Chicago losses—net surplus at end of the year \$1,132,802.72. October 26, the Franklin's computation of net surplus, with Chicago provided for, was \$476,446.26; at end of year the net surplus was \$566,335.84. The Franklin ceased insuring in Chicago, but continued business in other sections of Illinois.

The assignment of the Enterprise brought insurers of perpetual risks privately in convention, and at the meetings held the contingencies besetting the deposits were canvassed. As there was no earning of any part of the deposit premium as such, in the course of any number of years, a proposition as to future writing was introduced, which was to limit the deposit as withdrawable to a long fixed term of years, with gradual reductions of reclaimable sum; the risk not to determine at the end of the term, but to continue until title to property was transferred. Such form of long term insurance as a substitute for perpetual insurance received but little attention, and the outcome of the consultations was an extension of time of paying reclaimed deposits from three days "after demand" to sixty or ninety days, and the deduction of 5 per cent. was increased to 10 per cent. In case of sale of property, deposit, less 10 per cent., withdrawable if applied for within sixty days after sale, but deposit forfeited if unclaimed within sixty days.

In 1871 the *Treatise on the Law of Fire Insurance*, by Henry Flanders, was published.

Reporting for the patrol district or otherwise, the Philadelphia Insurance Patrol enumerated \$1,314,432 of fire loss in 1871, being \$687,611 less than the amount by its report for 1870. With such receding in annual conflagration, there were counted 504 actual fires in 529 alarms. There were 355 conflagrations other than in dwelling-houses. Of these, 75 were in mercantile establishments, and besides 99 other factory fires there were burnings in 29 "woolen" mills and picker houses, 8 dye houses, 8 saw and planing mills, and 5 "coal oil" works.

As a revelation of the American fire hazard, Chicago gave a great impetus to advance in premium rates in 1872. The Chicago conflagration was not, however, a measure of Philadelphia fire disaster. Chicago had four times greater fire loss in two days than Philadelphia in all its history, but in the last three years Philadelphia had burned nearly three millions per annum, and the conflagration prospects were different from what had prevailed. Further than this, the significance of Chicago was, that no city can insure itself (or, in other words, city offices writing merely local risks were predestined failures when the severity of trial came); and though as yet the agency system had inadequately brought the concentrated general security to bear upon each particular point, the insurance economy inculcated the principle of the widest distribution of loss, and "bear ye one another's burdens" was a sacred injunction. So, "if Philadelphia burn, Chicago pays in part; if Chicago burn, Philadelphia pays in part"; which was to say that one city would pay for another's loss according to the measure of that one city's insurance development. This,

however, was in subordination to the rule that each locality should be rated primarily in accordance with its own fire experience.

The Association of Fire Underwriters of Philadelphia had been organized as one of the local tariff ramifications of the National Board of Fire Underwriters; president, Charles Platt, vice-president of the Insurance Company of North America; vice-president, John H. Dohnert, president of the Spring Garden; secretary, M. D. Evans, of the agency firm of Evans & Hare; treasurer, Alexander W. Wister, of Wister & Peterson;—directors: George Wood, of the Royal; Henry S. Humphries, of W. D. Sherrerd & Co.; John Wilson, Jr., of Arrott & Wilson; William Boswell, of Boswell & Co.; William G. Crowell, secretary of the Pennsylvania. Section 12 of the by-laws of the Association was as follows:—

No risk located outside the jurisdiction of this Association shall be written, or caused to be written, by any member at less than the established rate of the locality of the risk. And the rates of every local board organized under the auspices of the National board are hereby adopted and made part of the rates of this board, so far as the same may apply to risks located within the jurisdiction of such local boards respectively.

The Association was, like the Underwriters' Exchange, a combination of local and non-local companies. One provision adopted was, that "a commission not to exceed ten per cent. on first premium or renewal premium may be paid to persons doing business as regular insurance agents or insurance brokers." The Association's ratings in 1872, as compared with those of the Exchange in 1867, are thus exemplified:—

*Warehouses, Stores, and Dwellings occupied in part as Stores.*

	Exchange.	Association.
First class, . . . . .	\$ .30	\$.50
Second class, . . . . .	.35	.55
Third class, . . . . .	.40	.60
Fourth class, . . . . .	1.00	1.00

*Full Rates of Contents (minimum) in Third-Class Building.\**

Agricultural implements, . . . . .	.50	1.00
Alcohol, . . . . .	.75	1.50
Apothecaries (prescription), . . . . .	.60	.80
" (manufacturing), . . . . .	1.00	1.50
Artificial flowers,† . . . . .	.65	1.00
Auction, goods at (books excepted), . . . . .	.55	.75
" (books), . . . . .	.70	.90
Bakers (retail), . . . . .	.60	.75
" (biscuit or cracker, steam power), . . . . .	1.50	2.00‡
Bandbox makers, . . . . .	1.00	1.50
Bark inspection warehouses and sheds, . . . . .	1.50‡	1.50
Bleachers of baskets or hats, . . . . .	1.00	1.50
Blind makers, . . . . .	3.00	3.00
Cabinet makers, . . . . .	2.50	
" (hand power), . . . . .		3.00
" (steam power), . . . . .		5.00
Cap manufacturers, . . . . .	.75	1.00
Carpenter shops, . . . . .	3.00	3.00
Chair makers, . . . . .	2.50	3.00
Chemical laboratories, . . . . .	2.00	2.50

\* Association: "A reduction in rate of ten cents to be made on Buildings and Merchandise, and Store Fixtures therein, where a part only of the premises are occupied for mercantile purposes, the rest being used for a dwelling."

† Rate not affecting other property on same premises.

‡ Rate without regard to building.

Clothing stores (ready made), . . . . .	\$ .55	\$ .75
Cotton waste, . . . . .	5.00	5.00
Drug, coffee or spice mills, . . . . .	2.50	3.00
Furniture (in city dwellings), . . . . .	.30	.30
"    (in boarding houses), . . . . .	.50	.50
"    (in hotels), . . . . .	1.00	1.50
Glue manufactories, . . . . .	2.00	2.50
Lumber, clear space of 50 feet from planing mill, . . . . .		3.00
Turners in wood, . . . . .	3.00	4.00
Organ builders, . . . . .	3.00	3.00
Stables (livery, car, or tavern), . . . . .	2.00	2.00
"    (private or club), . . . . .	1.00	1.00

Within such range 372 different classes of property were designated with seventeen premium variations in the Association's ratings.

Philadelphia fires were advancing in 1872 from the ratio of 1871, and opportunities for competition were broadening. Under an act of incorporation of date of April 2, 1860, the State Insurance Company began May 1, 1872; H. A. Chambers, president, David Ginther, secretary. The charter specifications as to capital were: Capital stock \$50,000, with right to increase to \$500,000,—shares not less than \$50, nor more than \$200. It had also the right to conduct its business on the mutual plan, and it was further, by Section 1 of act of incorporation, delegated with authority—

To have and enjoy all the rights, powers and privileges, and be subject to the limitations and restrictions provided by an act entitled "An Act to provide for the incorporation of insurance companies," approved April 2, 1856, with power to insure all risks, and enjoy all other privileges whatsoever enumerated in the first and second parts of the seventh section of said act; and also have the right to insure domestic animals, together with every species of property, pursuit or business, in the occupation or prosecution of which there is any loss or risk.

The State limited itself to loss or damage by fire or lightning.

By an act of February 19, 1872, the charter of the defunct Manufacturers' Insurance Company was changed in title to the Penn Fire Insurance Company, and the Penn was organized with a cash capital of \$150,000—beginning business August 1; president, C. H. Stokes, secretary, J. R. Warner.

Preceding the organization of the State and the Penn, the National Fire and Marine Insurance Company was started. This company had its beginning prior to the Chicago fire, the initial proceedings commencing September 18, 1871, but the practical beginning of its business in the style of operation determined upon was in April following; Simon J. Stine, president, W. D. Halfmann, secretary. The act of incorporation was approved August 31, 1869. Three sections of this act were as follows:—

SEC. 4. The said company may, from time to time, receive notes or other securities, real or personal, as premiums from persons intending to effect insurances therewith, or from any other person or persons, under such regulations or agreements as shall be authorized by the directors; which said notes or other securities may be negotiated, transferred or conveyed by the said company for the purpose of paying claims for losses accruing in the course of its business; and on such portions of said notes or securities as may exceed the amount of premium paid, or agreed to be paid, by the parties from whom the same may have been received, the said company may allow and pay such interest or other compensation, not exceeding five per cent., as may be agreed upon by the directors.

SEC. 5. That the capital stock of the said company shall be two hundred thousand dollars, but the same may at any time be increased to one million dollars whenever the directors may deem it advisable; and the stock of said company shall be divided into shares of fifty dollars each.



SEC. 6. No stockholder shall, in any case, be liable over and above the precise amount of stock paid in or held by him, and when such stock shall be absorbed by losses or expenses of said company, all liability or responsibility on his part for losses or expenses shall cease.

The National was prepared to take part in the reaction that followed the depression immediately succeeding the Chicago fire. Evidence was given of a cash capital of \$250,000. The new building vacated by the liquidating Enterprise was purchased, and the National was authorized to do business in New York, Massachusetts and other New England States; and also in Ohio, Illinois and Missouri. By the first of October 250 agents had been commissioned and equipped, and 3,550 policies issued, the premiums on which amounted to \$73,400, and the losses (having yet scarcely begun) amounted to \$13,000. Three months more the aggregate premiums on risks in force were \$189,667, at an average rate of 1.73 per cent.

Before those three months elapsed, the "next Chicago" had occurred. The second was not equal to the first. It, however, refuted the predictions that Chicago was a great exception to be followed by the usual order of conflagration. It confirmed the other fire evidence that an extraordinary condition of combustibility existed—atmospheric or otherwise. Boston began its greatest burning at 7.15 P.M., November 9, 1872.\* As a loss calamity, it was to Philadelphia offices far greater than that of Chicago. The insurances by Philadelphia companies in the flame-swept area were about \$3,500,000; and the question was how much of such aggregate insurance was loss to be paid by five or six companies? The situation was appalling. There were, however, a few men with the requisite nerve and sagacity to sustain the sinking courage of others. If there were terrors within, these were not allowed to communicate without to frighten the public into the frenzy of panic. As the accounts began to be made up, the losses appeared as follows, as first estimates:—

American, . . . . .	\$300,000	Insurance Co. of State of Penn'a, . .	\$100,000
Anthracte, . . . . .	† 5,000	National, . . . . .	19,500
Delaware Mutual Safety, . . . .	375,000	Penn, . . . . .	23,000
Fame, . . . . .	20,000	Pennsylvania, . . . . .	300,000
Franklin, . . . . .	500,000	State, . . . . .	† 5,000
Girard, . . . . .	50,000	Union Mutual, . . . . .	34,000
Insurance Co. of North America, .	900,000		

\* The Boston flames were first seen as bursting from the Mansard-roof windows of a five-story granite building on Summer street, corner of Kingston; the engine room having ignited, the fire ran up the hoist-way of the elevator to the Mansard loft. While the elevator as a flue opening at the top of the building is an escape from the spreading of flame, the elevator closed at top is a passage way for the distribution of flame. An epizootic prevailing among horses, there was some delay in bringing the steam fire-engines to the spot, but for nearly three-quarters of an hour the flames were confined to the building in which they originated, owing to the light velocity of the wind, until the augmenting heat energized the draughts and the fire was communicated to the window casings on the opposite side of Summer street. Then the fire spread like a fan northward, and after a detour to the west, further progress ceased at 2 P.M., on the 10th. Sixty-five acres of a mercantile district were swept, 776 buildings destroyed (709 brick or stone), and in the number were only 60 dwellings. Total firms and business houses burned out, about 930—one-third of which were shoe and leather dealers. The real estate was assessed at a value of \$13,591,900, and the structures were probably worth \$20,000,000. Loss on personal property was estimated at \$60,000,000. Aggregate insurance was about \$56,000,000, of which \$36,000,000 were in Massachusetts companies. This fire caused the insolvency of 26 Massachusetts companies, whose losses were \$30,000,000, with \$16,000,000 of assets. Four New York companies and another other-State company also collapsed; two of the former, the Market and the Washington, were resuscitations or new incorporations after Chicago bankruptcy. Again the foreign companies paid their losses (the Liverpool and London and Globe and the Royal sustaining more than one-half of the loss of the foreign companies), and the other-State companies paid about 95 per cent. of theirs.

† Reinsurance. ‡ Reinsured \$2,500.

With the Insurance Company of North America and the Franklin, it was not simply Boston, but Boston added to Chicago. These two institutions were, however, actual insurance companies. Philadelphia would pay all its insurance indebtedness to Boston—Boston suffered most by trying, in too large proportion, to insure itself—but would such payment cause destruction of any part of that Philadelphia insurance building-up which had cost years of trial to consummate?

Even with the binding force of Chicago the coalescence of the Association of Fire Underwriters was doubtful, through the antagonism of agencies and local companies—the rates adopted having proved to be, in their distinct features, inoperative—but the heat of Boston welded the union, and the Association convened November 11, in great unanimity. Thirteen Philadelphia companies, 11 other Pennsylvania companies, 9 foreign companies, and 65 other-State companies were represented. These resolutions were unanimously adopted:—

*Resolved*, That all rates of premium on merchandise, and buildings containing the same, be advanced 50 per cent. from this date; and that the old tariff of the Philadelphia Board of Underwriters and of the Underwriters' Exchange be taken as a basis.

*Resolved*, That rates of premium on Specially Hazardous risks, as taken in Philadelphia, be advanced 25 per cent. upon the current rate, the latter being understood to be the rate of existing policies.

## CHAPTER XI.

*Additional European Companies—The Fire Association in Associative Coöperation—Rates and Lines written—Increased Premium Receipts—The Boston Account of Six Philadelphia Companies—Position of the Pennsylvania and the Penn Fire—The Fire Loss Character of 1872—The Patrol Risk Inspection—The Fire Extinguishment Plant criticised—Liabilities and Asset Dividends of the Enterprise—The Reinsurance Contract between the Fame and the Enterprise—The Franklin in 1873—High Rates start New Companies—The Manayunk, the Safeguard and the Advance—The Pennsylvania Insurance Department makes some Disclosures—The Hope Mutual, the State, and the Safeguard as Insurance Companies—Thomas H. Montgomery, General Agent of the National Board—Inspections and Ratings of the Association of Fire Underwriters of Philadelphia—The Revised State Constitution and Unused Charters—The Tariff of the Philadelphia Association—Rates as Contingencies—Schedule Rating—Insurance Movement of the Lumbermen—Lumber Rates—The Mutual and Joint Stock Lumbermen's Insurance Company, etc.—The Sun Fire Insurance Company—Tabulation of Business and Position of the Philadelphia Joint Stock Insurance Companies, 1873—The Perpetual Risks and Deposits—The Two Perpetual Fire Risk Companies—Assessment Companies—The Agencies of Other-State, Foreign and State Companies—Reduced Fire Loss in 1873—Fire Alarm Telegraphy—The Germantown Deposit, Trust and Insurance Company—The Central Fire Insurance Company projected—The Advance discontinues—The Safeguard has Asset Figures—The Asset Phantasmagoria of the People's Fire Insurance Company—The Central goes into the Hands of a Receiver and its President to the Penitentiary—The Manufacturers' Mutual Fire Insurance Company dissolved—The Stock Capital Plan of the Possible Stock Department of the Manufacturers' Mutual—The American Underwriters' Association—The Assets of the Central levied upon, but the Receiver gets them—The "Mysterious Box" of the Safeguard, Secretary arrested and Corporation dissolved—More Special Risk Examinations by the Survey Department of the Association of Fire Underwriters—The American Underwriters' Association frustrates the State Insurance Commissioner—Doubtful Financial Position of the Penn Fire—Impaired Stock Capitals—The Business of the National—High Premium Rates cannot save Incompetent Management—The Insurance "Rascal" sometimes a Mere Incompetent—The Character of the Frauds of 1874—Low Ratio of Fire Loss in 1874—The Association of Fire Underwriters commends the Detective Work of the State Insurance Department—The Supreme Court decides as to Application of a Special Policy associated with General Policies—The National makes an Assignment and escapes a Receivership—The "Efficiency of the Fire Department and the Fire Patrol" reduces Rates—Assets as tested—Pennsylvania Fire Insurance Business in 1875—Semi-Centenary of the Pennsylvania Fire Insurance Company—Two more European Companies—Fires and Fire Losses of Two Decades Compared—The Net Surplus and Dividend Basis—The Centennial of American Independence and the Fire Jeopardy—The Exposition Buildings and Contents as Insurabilities—The Exposition Fire Brigade—The Penn makes an Assignment—The Disappeared State Insurance Company—The New Jersey*



*Fire Marine and Inland becomes the Philadelphia Fire Insurance Company—Parties who had procured the "Show Capital" of the Safeguard imprisoned—Ignitions and Fires at the Centennial Exposition—Exhibits of Fire Extinguishers and Fire Escapes—The Centennial Policy of the Girard—The Fourth Year of the Association of Fire Underwriters—The American Underwriters' Association stops—La Caisse Générale temporarily withdraws—The Reinsurance of Penn Fire Risks by the French Corporation—The Northern, of London and Aberdeen, resumes Business in Philadelphia—The Fires, Insurances and Rates of 1876—Further Legislation in Relation to the Fire Dangers of Petroleum—The Reinsurance Contract of the Fame and the Enterprise—The Position of the Fame—The State Insurance Company of Hannibal waives, despite of Non-waiver Clause—The People's Fire terminates—Receivers as Receiving—Assignee of the National files Claims against Principal Stockholders—One Foreign Company reënters, another admitted—Raiding Manufacturers' Mutual Companies of Massachusetts and Rhode Island—More Receivers—Three Court-incorporated Philadelphia Mutuals and their Doings—The Philadelphia and the Sun withdraw from the Agency Business—The Business in 1877 of these Corporations—Introduction of Electric Lighting—The Electric Current produced by Benjamin Franklin—Electricity and Fire—Suit against the Agents of the State, of Hannibal—Encumbrance falling without Notice—Mortgaged Premises sold Premium Deposit belongs to Assignee Mortgagee—A Threatening Conflagration—Telephonic Communication—Flour Dust Explosions absent from Philadelphia—Cymogeme and Rhigolene Ice-making as Fire Jeopardies—The Insurance of Mortgage Interests, Blodget's Slip—Blodget's Law of the Fire Insurance Contract—Is Damage by heating without Ignition Policy Fire-Loss?—The National Board and Rates—Net Fire-Premium and its Loading—Special Office-Experience—Average Premium and Maximum Policy Sum—Formula for computing Fire Cost—A Disputed Loss Account—Final Dividend of the Assigned Estate of the Enterprise—Second Dividend to the Creditors of the Penn—The Fame and the Philadelphia discontinue—The Hamburg-Magdeburg admitted. (1872-1878.)*

INCLUDED in the covention of the Association of Fire Underwriters of Philadelphia were other-State companies that were new incorporations succeeding the old ones bankrupted by Chicago, and continuing the former names. In some other instances capitals had been reinstated. The four recent additions to the represented European companies were the Commercial Union, of London, the Hamburg-Bremen, of Hamburg, the Lancashire, of Manchester, and the London Assurance Corporation.

One of the associated underwriters was the Fire Association of Philadelphia, as reconstructed. This company was now entering upon an agency business.

With increased rates, the lines written began to fall off, and, as a consequence, the aggregate of premium receipts was at first but little increased, the sequel of which was to be determined by the consequences of decreased insurance loss in some fires and decreased salvage (on insured amounts) in other fires. Difference in rate is not altogether a measure of difference in premium. If A is insured on his property in the sum of \$5,000 at one per cent., and rate being advanced to 1.25 per cent. his policy is written for \$4,000, while the average burning, or insured loss, is represented by \$3,000, the relative position of the insurer and insured is in nowise changed by the increase in rate.

There was, however, a rapid premium gain in companies which were showing ability to withstand the severest pressure of such conflagrations as those of Chicago and Boston. This was as the lifting of a darkening cloud, and with increased courage and something of hopefulness the Boston account was settled

by the six Philadelphia companies respectively sustaining loss in excess of \$100,000, only one of these closing 1872 with impairment of capital disclosed. After Boston these six companies stood as follows:—

	Losses by Boston Fire, paid.	Net Surplus, Dec. 31, 1872.
American, . . . . .	\$457,801	\$ 14,278 28
Delaware Mutual, . . . . .	370,206	318,952 95*
Franklin, . . . . .	451,505	270,350 60
Insurance Company of North America, . . . . .	988,530	288,663 88
Insurance Company of the State of Pennsylvania, . . . . .	133,685	37,779 53
Pennsylvania, . . . . .	550,000	—133,141 54

The Delaware Mutual Safety, with the completeness of its registers, was early ready to show precisely the last dollar of its Boston loss. January 15, an assessment of \$50 per share on the stock was ordered by the Pennsylvania to make up the deficit in the capital. Net premium income of this office was \$580,855.24 in 1872, against \$211,047.52 in 1871. By the close of 1873 the Pennsylvania had a net surplus of \$121,537.82 above its fully restored capital.

Ending its first five months' business December 31, 1872, the Penn Fire had its capital of \$156,650.00, as paid up, impaired \$8,109.13, with \$43,017.93 in the assets being agency net premiums in course of collection. This was a respectable organization, and not without promise of success. It entered Massachusetts a few weeks before the Boston fire, complying with the State requirements, and writing \$1,884,005 of insurance in Massachusetts by the close of the year—\$312,500 in Boston; its sole Massachusetts losses in 1872 occurred at the great Boston fire—\$23,500; premium receipts on Massachusetts risks, \$35,132.

By the patrol report there were 655 fires and alarms in the city in 1872, having an average loss of \$3,314, against an average of \$2,485 in 1871. As under equal conditions of combustible liability the more capable fire extinguishment will be marked by less average fire destruction, an average of \$3,314 in 1872 against an average of \$3,512 in 1870 was, if all the conditions otherwise were equal—an equality, however, not likely to have obtained—a measure of the comparative efficiency of the volunteer and the paid fire department. The burning of a sugar refinery in 1870 was, as has been stated, the maximum fire of that year—always a difficult conflagration for the fire department to control. The fires of 1872 called for the spreading of 791 covers. In the latter year conflagrations occurred in thirty-two textile mills, and eight in the few saw and planing mills. In 1872 the patrol instituted an inspection service, prominently caused by the outbreak of fires on Market street; William McDevitt was appointed inspector. This inspection aimed to ascertain the building defects, the arrangement of contents, lights, heating, etc., disposal of waste, the management of machinery, and the various neglects contributive to ignition and the spreading of flame. The directors of the patrol reported upon the provisions for extinguishing fires as deficiencies, stating that "at no point in the city is there sufficient pipe supply to put more than eight steamers into

\* Net surplus above outstanding scrip (\$839,605) as well as stock capital, such scrip being, however, as against losses, a net surplus.



efficient service," and that "such a necessity would strip *miles of the built-up portions of the city* not only of fire apparatus, *but of water supply.*" The directors thought it to be "the duty of the citizens of Philadelphia . . . to demand a thorough change and increase in the water mains, an increase in the number of alarm boxes, a proper location of the engines now in service, and an increase in the number of apparatus."

In the case of the Enterprise Insurance Company, the auditor appointed by the court, Furman Sheppard, reported total liabilities at \$858,985.64, composed as follows:—

Unpaid losses, . . . . .	\$455,895 20
Perpetual premiums, . . . . .	352,280 51
Unearned term premiums, . . . . .	49,647 45
Other indebtedness, . . . . .	1,162 48
	<hr/>
	\$858,985 64

Valuation of the assets appears not to have been determined; there was a sort of an estimate of them at \$429,000, or 50 per cent. of the liabilities, but manifestly this was not the measure of the full capacity of the estate to respond to the claims of creditors. First dividend ordered was 12 per cent., reclaimable perpetual deposits sharing *pro rata* with the other claims. In a few months a second dividend was paid, this dividend being 43 per cent., and the third dividend was pending.

Some of the losses were on risks covered by the policies of the Enterprise which had been reinsured by the Fame. Questions arose in respect to the liabilities of the Fame as indemnifying or reimbursing the Enterprise by the rate of the latter's loss payment. In the Supreme Court at Nisi Prius (the Philadelphia Trust, Safe Deposit and Insurance Company *vs.* the Fame Insurance Company, hearing on bill and demurrer), the counsel for the Fame contended that—

There was no contract between the Fame and the original insured. There was no liability to them. The moneys which might be paid by the Fame must be paid to the Enterprise, and the original insured had no interest, either in the contract with the Fame or the moneys paid thereon, different from all other creditors of the Enterprise. . . . . Where there is the ordinary policy of reinsurance, the reinsured can collect from the reinsurer before payment to the original insured, and though the company reinsured becomes insolvent, the reinsurer is not released from payment in full by reason thereof, but to sustain the demand the reinsured is at the peril and risk of making the same legal proof of the existence and extent of the loss as the original insured would have to make to recover on his policy. . . . .

The reinsurance agreement of the Fame was, in some cases, to exonerate the Enterprise from all losses, in others to contribute to payment in certain proportions "in such times and in such manner as the latter company may pay." The bill of the plaintiff prayed the court to decree that the case be referred to a master, before whom both parties should produce their books.

Sharswood, J.: "The losses, if any, are to be payable *pro rata* to the Enterprise Insurance Company in such times and in such manner as the latter company may pay." This clause must have such interpretation as will not entirely defeat the contract. I would construe the words "as the latter company may pay" to mean "as the latter company may be liable to pay." It meant that the Fame company should have all the advantages of the Enterprise company as to the time and manner of payment, that they should not



be called on to pay on the immediate happening of the loss, but whatever conditions as to the time and manner of payment might be annexed to the original policy should be extended to them. Demurrer overruled. (9 Phila., 292.)

May 1, 1873, the Franklin removed from the site on Chestnut street, where it began January 25, 1829, to 421 Walnut street, where a building had been purchased and adapted to the various departments of its business on the scale now reached, with desk equipment for forty clerks. The Franklin, now in accord with the associated insurers, was underwriting in thirty-two States and employing eleven travelling inspectors of risks; George F. Reger, manager of the Department of the East, Coffin & Kellogg, managers of the Department of the West, J. W. Cochran & Son, managers of the Department of the South. Total insurances written and average rates compared as follows for the two previous years:—

	Amount insured.	Average rate of premium.
1871, . . . . .	\$109,735,947	1.32
1872, . . . . .	119,524,942	1.41

High rates, so called, were deemed to be the opportunity for new ventures of varied character. If the rates were really "high," there was properly no place for them in the fire insurance price current. Attempts to gather in premiums as profits rather than compensation always have been, and always will be, failures. Fires make the only rates that endure. The Manayunk, incorporated April 9, 1873, was ready to issue policies June 13, 1873; F. R. Shelton, president, G. H. Evans, secretary. The Safeguard—William Painter, president, George F. Hilt, secretary—incorporated as the Commercial Fire, February 23, 1847, with "a capital paid up in cash" of \$200,000, began July 15. Nine days later the Advance was started—B. W. Harper, president, W. H. Corlies, secretary—with a charter of date of April 2, 1860.

This year the State insurance department made some disclosures as outcomes of the rather mild tests to which possible insurance companies were subjected in the initial proceedings of such department. The Hope Mutual Fire Insurance Company of Philadelphia was discovered as having at least official quarters in Philadelphia, and its risks had generally the safety of wide distribution, away from the dangers of the joined and adjoined combustible properties of a city. Its financial foundation was: "Capital \$250,000, paid-up capital \$225,000, total assets \$349,930." This Hope was examined in August. It combined both stock and mutual operations. The State commissioner found that \$225,000 of capital stock had been issued, and that its premium notes on mutual policies amounted to \$94,766.00, and for undetermined stock risks the receipts had been \$49,747.36. Capital was made up of "mortgages" on tracts of land, salt meadows, etc., "to which there was neither title nor value," etc. With "\$225,000 of capital," the liabilities of the stock department were \$260,739.14; total value of assets \$24,201.87, including in such valuation, however, \$15,576.06 of premiums yet to be collected. Stock department was handed over to "The Great Western Insurance Company of New Orleans," and the Hope remained as an effort in mutual fire insurance. It disappeared, with the United States District Court, in a suit on a \$500 claim arising in the Pennsylvania oil district, adjudging it to be bankrupt. A second examination

was made of the State Insurance Company in November: Capital stock issued \$40,700.00, total assets \$39,965.14, liabilities \$54,911.56. Court of Common Pleas of Dauphin county granted a rule upon the company to show cause why its business should not be closed. The Safeguard was also examined in November: "Assets \$215,605.28; liabilities, including capital, \$223,489.83." In the language of the insurance commissioner: "Among the assets was included \$149,750 loaned upon bond and mortgage, valued at \$138,250. These mortgages were examined by attorneys employed by the department, and their reports as to title and value of mortgaged premises were of such character as to warrant their exclusion as valid securities."

In the spring of 1873, E. B. Merrill was appointed by the Association of Fire Underwriters inspector of risks, and later under the revision of the Association. Mr. Merrill had been employed in the New England department of the Liverpool and London and Globe as inspector of risks, and he was selected by the Association chiefly on account of his knowledge of cotton, woolen, and cotton-woolen risks, and machinery hazards in general. March 27, the executive committee of the National board met in the city at the instance of the Association. Thomas H. Montgomery, who had returned home from his sojourn abroad with improved health, had been appointed general agent of the board. Concerning this appointment the Insurance Times, of New York, remarked: "His functions will be very important. It will be his duty to superintend the general business of the National board, advise with the local boards organizing and organized throughout the United States, touching the question of rates, and do other business formerly intrusted to various sub-committees. Mr. Montgomery has an Atlantean task to perform, but he is just the man for the work, having the requisite knowledge and practical energy." In the year ended October 17, 1873, embracing the first eight months' operations of the survey department of the Philadelphia Association, 1,066 special ratings had been made—307 large establishments and 759 small ones in the city and vicinity. The former comprised 124 cotton and woolen mills, 54 machine shops and foundries, 30 wood-working places, 15 printing and binding establishments, 16 railway depots, 14 places of amusement, 19 malt houses, 4 print works, 4 paper mills, 5 chemical works, 3 glass works, 3 sugar houses, 5 meat and smoke houses, 4 oil refineries and warehouses, 5 marble works, 1 oil-cloth works, 1 car works. At the close of the first year of the Association the membership represented 88 companies.

The revised State constitution, adopted at Philadelphia, November 3, 1873, had this declaration:—

All existing charters, or grants of special or exclusive privileges, under which a *bonâ fide* organization shall not have taken place, and business been commenced in good faith at the time of the adoption of this constitution, shall thereafter have no validity. (Art. XVI, Sec. 1.)

This had caused some little movement to keep such corporate franchises as speculative fire insurance opportunities from extinction.

At the close of 1873 the tariff of the Philadelphia Association was of the following character:—

## BUILDINGS, &amp;C.—MINIMUM RATES.

	First class.	Second class.	Third class.	Frame. Special.
Warehouses and stores, . . . . .	.50	.55	.60	Special.
Dwellings, . . . . .	.25	.30	.40	.50
Two frame dwellings, . . . . .				.75
Three frame dwellings, . . . . .				\$1.00
More than three frame dwellings, . . . . .				Special.
(Furniture in brick or stone dwellings .30, in boarding-houses .50, in buildings partly occupied as stores .60, furniture and libraries in public buildings, schools, academies, private offices and churches, .60; furniture in hotels \$1.50.)				
Bark inspection warehouses and sheds, . . . . .				\$1.50
Bridges—passenger, . . . . .				1.50
“ railroad, not roofed, but iron covered, . . . . .				1.00
“ “ roofed, “ . . . . .				1.50
“ “ not roofed, . . . . .				2.00
“ “ roofed, . . . . .				2.50
Brick yards and buildings therewith (also contents), . . . . .				2.00
“ “ “ with steam, . . . . .				2.50
Commission warehouses (general merchandise) with railroad tracks, . . . . .				1.00
“ “ forwarding and transportation, . . . . .				1.00
“ “ flour and grain only, with railroad tracks, . . . . .				.75
Dwellings—unfinished, in process of finishing, . . . . .				1.00
Factories or buildings other than dwellings, unfinished, with privilege of finishing, . . . . .				1.50
Ice houses and their stables, . . . . .				.00
Lumber yards, unless specially rated, . . . . .				2.00
Lumber, clear space of 50 feet from planing mills, . . . . .				3.00
“ “ 25 “ “ . . . . .				5.00
“ less than 25 feet from mill, . . . . .				Full rate of mill.
Marble yards and shops, hand power, . . . . .				.75
“ shops, steam power, . . . . .				1.50
Mast yards, . . . . .				1.50
Petroleum sheds and contents, . . . . .				Special rate.
Ship carpenters' and joiners' shops, . . . . .				2.50
Ships in ports, and their cargoes, per month, . . . . .				.20
“ building or repairing, and materials in yard, per month, . . . . .				.25
“ iron, as above, per month, . . . . .				.20
Shooting galleries, . . . . .				1.50
Stables (livery, car, or tavern,) and contents, . . . . .				2.00
“ (private or club,) “ “ . . . . .				1.00
Steam boats and ships, other than ferry, running, per annum, . . . . .				2.00
“ “ lying in port, and cargoes, per month, . . . . .				.20
“ “ and ships, building or repairing, per month, . . . . .				.25
“ “ “ iron, building or repairing, per month, . . . . .				.20
“ ferry boats, . . . . .				1.50
Transportation warehouses and forwarding depots, . . . . .				1.00
“ “ flour and grain only, . . . . .				.75

## STOCKS IN THIRD-CLASS BUILDINGS AND CERTAIN MANUFACTORIES.

(Subject to a reduction of 10 cents in a first-class, and 5 cents in a second-class building.)

\* No reduction to be made for dwellings.

† Articles so marked do not affect rates on other property on same premises.

Cloths and cassimeres, dry goods in packages, iron (bolts, bars and rods), metals, molasses, provisions salted, provision stores,† wool in bales, . . . . . .70

Auction goods (except books), bakers,\* beer and porter houses,† boots and shoes (wholesale), Britannia-ware (retail),† brushes,† candles and soap, carpets, chandeliers and gas fixtures, chinaware (in packages), clothing (ready-made), coffee, confectionery (without fireworks),\* corks, cotton brokers with samples,† cotton in bales, cotton and woolen yarns, curled hair, glue and sand-paper, curriers, drinking and eating houses or taverns,\* dry-salters, dye-woods and dye-stuffs, earthenware (in packages), feed stores (without hay or straw), flour, fur dressers, furriers' stocks, glassware in packages, glassware (window or plate in boxes),† grain, groceries (without kerosene—wholesale and retail), guano, gunny bags, hides and leather, indigo in packages, iron (plate, sheet, wire, hoop and band), jewellers' stocks (not in fireproof safe), liquors (retail), locksmiths, looking-glasses in packages,† madder,† marble yards and shops (hand-



power), morocco, calf and goat skins (stock only), musical instruments,† oil cake and seeds, organs,† pickles, provision and produce stores (family), restaurants,\* rice, salt, silverware, sugars, tailors' stocks, tallow, teas (wholesale), tin plate (in boxes), trunks, watches (open),† . . . . .75

Apothecaries (prescription),\* cap and hat stores,† caps, hats, furs and trimmings,† dry goods (silk jobbers and retail), gentlemen's furnishing stores,† hardware (excluding cutlery),† housekeeping articles,† liquors (importers), nails, oil cloths, pearl ash, potash, saltpetre (one ton or less), sheet iron, soda, soda ash, steel, stove stores, sulphur, . . .80

Hosiery,† notions,† pocket books,† shoe findings, white goods (jobbers' stock), . .85

Agricultural implements, books at auction, cane and whip stores,† chinaware (unpacked), earthenware (open), flax, hemp, manila and sisal grass (in bales), fringe and trimming stores,† fruiterers (open),† gas fitters and plumbers, glassware (open), glove makers,† groceries (retail, with kerosene), hardware and saddlery hardware (including cutlery),† harness and saddlery,† lamp stores (without oils), laces and embroideries,† lard oil, manufacturers' supplies, mattress makers (hair only), oil (lard, sperm, linseed and castor), paper hangings,† paper in packages and rags in bales, parasols and umbrellas,† plated ware,† rope, seeds (grass and garden),† shirt manufacturers, spices,† starch,† stoneware, straw goods,† tea, coffee and spices, tin plate (open), tobacco and cigars (wholesale),† trimming stores,† upholstery, window or plate glass (unpacked), . . . . .90

Artificial flowers,† barbers' stocks,† baskets and woodenware, blacksmiths, billiard saloons, books and stationery,† boot and shoe factories (hand-power, not over 25 hands), bowling saloons, brush makers (no wood-working), cabinetware (salesrooms), cap manufacturers, carriages in salesrooms, cement and plaster, clocks,† coach lace and military stores,† comb makers, confectionery with fireworks (retail only), confectionery manufacturers, copperplate printers, coppersmiths, cutlery,† dental material manufacturers, electroplaters, engravers in metal and wood, fancy soaps and perfumery,† feathers, fishing and fowling tackle, fringe and trimming factories (hand-power), furniture (salesrooms), gilders, gold beaters, guns,† gunsmiths, gutta-percha and rubber goods, hand-loom weavers, hair dressers' stocks, hosiery manufactory (hand-power), jewelry manufacturers, junk stores (no rags or waste), liquors (wholesale, not over 250 bbls.), liquors (with privilege of rectifying without fire-heat), looking-glasses (unpacked),\* milliners' stocks,† military goods and coach lace,† morocco dressers, music stores, naval stores (with 25 bbls. spirits of turpentine), oils (essential), painters and glaziers, paintings (for exhibition, specially valued),† paints, pawn-brokers' stocks (collaterals), printers (copperplate), rigging lofts, rosin, segar makers, segars and tobacco (retail)†, saltpetre (over one ton), sail makers, ship chandlery, silver platers and smiths, soda (nitrate of), stables (private or club), stocking weavers (hand loom), sumac, tin workers, trimming stores (with hand-power manufactories), toys and fancy articles,† trunk makers (leather), varnish and painters' stocks (without benzine), watch makers (stock and tools), weavers (hand loom) webbing and suspender manufactories (hand-power), wire workers, wooden or Yankee wares, workers in plaster of paris, . . . . .1.00

Bookbinderies (hand-power), boot and shoe manufactories (hand-power, over 25 hands), bottling establishments, brass foundries, cabinetware (with privilege of varnishing and upholstering), cotton bats and wadding, envelope factories (hand-power), firecrackers (wholesale), flax, hemp, manila and sisal grass (loose), fur, silk or wool hat finishers, lead pipe and sheet lead factories, lime, looking-glasses, pictures and prints,† map makers, mathematical and optical instrument makers,† paper in packages or reams with rags (open), parasols and umbrellas (with privilege of putting together), photographers, pocket book manufactories, printers (hand-power), rags (loose), shirt manufactories (with laundry), shooks or staves (coopers' stock), straw goods manufactories, surgical instrument makers, tobacco and cigar factories (hand-power), workers in brass, . . . . .1.25

Alcohol, apothecaries (manufacturing), bandbox makers, bark sheds, basket makers, bedding warehouses (without feather steaming), blacking factories, bleachers of baskets or hats, boot and shoe factories (steam-power), brewers, broom corn in bales, carvers, confectionery manufacturers (steam-power), coopers (cedar and oak), cordwood, drugs (wholesale, without acids, phosphorus or guncotton), dyers (no steam), feed stores (with hay and straw), gas meter factories, lamp stores (with privilege of 5 bbls. refined petroleum), last makers, laundries, lithographers (steam-power), liquors (wholesale, over 250 bbls.), malt houses (excluding malt on kiln), marble shops (steam-power), mast yards, paints ground in oil (5 gals. benzine), paper-box makers (general), paper (loose, with privilege of sorting), patent medicines, potteries, printers with Baxter or similar small engine and boiler (other steam-power \$2.00), rags (with privilege of sorting), shooting galleries, stove factories, turners in ivory or bone, vinegar factories, whip manufactories, . . . . .1.50

Acids (nitric, muriatic and sulphuric), bakeries (steam-power), boat builders (hand-power), bookbinderies (steam-power), brick yards, broom factories, curled hair and hair cloth factories, drugs (wholesale, with acids, phosphorus or guncotton), steam dyers, fireworks (wholesale), gas fixtures and lamp factories, ice houses and stables, lard oil factories, lead works, linseed oil mills, livery, car and tavern stables, lumber yards, shoddy in bales, snuff mills, . . . . . 2.00

Bedding warehouses (with feather steaming), brick makers (steam-power), candle makers, chemical laboratories, coach makers, glue factories, hat body manufactories, looking-glass and picture frame makers (hand-power), mattress makers (other than hair), petroleum (refined, not exceeding 25 bbls.), ship carpenters, trunk makers (wood), wheelwrights, . . . . . 2.50

Blind makers, cabinet makers (hand-power), carpenter shops, chair makers, coal breakers, coffee, drug or spice mills, lumber (50 feet from planing mill), organ builders, piano-forte manufacturers, . . . . . 3.00

Coal breakers with saw mill attached, or within 50 feet, . . . . . 3.50

Turners in wood, . . . . . 4.00

Cabinet makers (steam-power), looking-glass and picture frame makers (steam-power), lumber (within 25 feet of planing mill), . . . . . 5.00

Planing mills, sash, door and blind factories, . . . . . 8.00

#### SPECIAL RATES.

##### *Particular Establishments.*

*Stove and Hollow-ware Works.*—Brick stable \$1.25, iron foundry \$1.50, cleaning shop and boiler house \$2.00, warehouse and finishing shop \$2.00, blacking shop \$2.00, enamelling and wareroom \$2.00, storage firebrick and ironware \$2.00, pattern making and trimming shop \$2.25, annealing shop \$2.25.

*Iron Foundry.*—Blacksmith shop \$1.00, foundry \$1.25, erecting shop \$1.25, machine shop \$1.25, boiler shop \$1.75, brass foundry and brass pattern storehouse and erecting shed \$1.75, carpenter shop \$2.50.

*Cotton and Woolen-Machinery Manufacture.*—Machine shop \$1.75, machine and erecting shop and pattern-making \$1.75, cleaning castings and pattern storage \$1.75, foundry \$1.75, blacksmith shop \$1.75, boiler house and annealing rooms \$1.75, rumbling shop and pattern storehouse \$1.75, paint shop and packing room \$2.00, lumber dry house \$3.00, carpenter and pattern-making shop \$6.00.

*Spring Works.*—Office .75, stable \$1.00, warehouse \$1.00, spring shop \$1.50, boiler house \$1.50, grinding and polishing shop \$1.50, boiler and engine house \$1.50, rolling mill \$2.50, steel furnaces \$2.50, charcoal house \$2.50, carpenter shop \$2.50, converting furnaces \$2.50, refining shop \$2.50, blacksmith shop \$2.50.  
shop working hard wood \$3.25, to etching shop \$5.00.)

(An extensive saw works ranged from machine and blacksmith shop \$1.50, to machine

*Dye Works.*—Dye house and office \$1.00, storehouse \$1.00, stable \$1.25, cylinder drying house \$1.25, drying sheds \$1.25, drying and cylinder room \$1.50, bleaching house \$1.50, dye house and cylinder drying \$1.50, boiler house \$2.75.

*Chemical Salt-Works.*—Shipping house and stave storage \$1.25, office and laboratory \$1.25 acid chambers, sulphur furnaces and lime house \$1.80, boiler house, soda liquor pan \$1.80, crystallizing house \$1.80, drying pans, bi-carbonate soda and alumina, \$1.80, soda crystallizing, grinding and packing \$1.80, dry house, 16 feet from barrel factory, with sprinkler pipe or steam jet, \$4.00, saw room, engine and boiler house \$6.50, barrel factory and dry house (sprinkler pipe) \$6.50.

*Laboratory.*—Warehouse .80, store room and packing rooms \$1.00, stable \$1.00, manufacturing room \$1.50, vacuum boiling and storage \$1.75, frame manufacturing room \$1.75, drying house and boiler house \$2.00, dry kiln house \$2.25.

*Bone-Boiling Works.*—Bone sheds \$1.25, storehouse \$1.25, frame bone sheds \$1.50, office \$1.75, breaker house \$1.75, mill house \$1.75, engine house \$1.75, boiler house \$1.75, mixing, finishing and grinding house \$1.75, kiln houses \$2.00.

*Petroleum Refinery.*—Refined oil tank and contents \$3.00, pump house and contents \$3.00, crude oil tank and contents \$4.00, receiving tanks and contents \$5.00, distillate tank and contents \$5.00, office \$5.00, receiving house and contents \$7.00, benzine tank and contents \$7.00, storage sheds and contents \$7.50, bleach house and contents \$7.50, settling house and contents \$7.50, frame tool house and contents \$7.50, agitator house and contents \$10.00, acid tank house and contents \$10.00, condensing tank and contents \$10.00, stills and contents \$25.00.

*Glass Works.*—Machine shop, chipping and grinding rooms, box shop, storeroom and stable, \$1.50, melting furnaces, annealing ovens, mixing room, stock sheds and office, \$1.75.



*Straw Paper Mill.*—Machine grinding room (old) \$2.00, (new) \$2.25, new boiler house \$2.50, straw storehouse \$3.00, different buildings and contents \$3.00.

*Wagon Works.*—Blacksmith shop \$1.75, office \$2.00, storehouse and workshop \$2.25, engine and machine shop \$2.25, wheel-boxing shop \$2.25, boiler house \$3.50, running-gear shop \$3.50, turning shop \$3.50, planing mill \$3.50, carpenter shop \$4.00, wheel and body making shop \$4.50, sawing and turning shop \$6.00.

*Saw and Planing Mill.*—Lumber in yard (across street from mill) \$2.00, lumber in yard and sheds on mill lot \$2.50, lumber under shed between office and mill \$4.00, saw and planing mill \$8.00.

*Morocco Factory and Tallow Works.*—Dye house \$1.50, stable, carriage house and shed \$1.50, 1, 2, 3 factory \$1.75, 4, 5, 6 salting and beaming rooms \$1.75, 7, 8 carriage house \$1.75, rendering house \$2.25.

*Cotton Mill.*—Office .75, stock house \$1.00, dye house \$1.50, sizing and finishing \$1.50, boiler and dry house \$1.75, cloth and weaving room \$1.75, spinning, carding, etc. \$1.80, carpenter shop \$3.00, boiler and picker house \$4.00.

*Cotton-Woolen Mill.*—Weaving and spinning \$2.00, carding and spinning \$2.00, office \$2.00, finishing and warping \$2.25, drug house \$2.50, dye and storehouse \$2.50, machine and carpenter shop \$2.50, boiler and dry house \$3.00, carding (first floor) \$3.00, picker house and contents \$3.50.

*Hosiery Mill.*—Finishing and warerooms \$1.25, main mill \$1.50, boiler and engine house \$1.50, picker house \$3.00.

*Woolen Mill.*—Storehouse \$1.00, main mill and additions \$1.75, engine and boiler house \$1.75, dye house \$1.75, sorting and cold air drying \$1.75, tenters in boiler drying room \$4.50, picker house \$5.00.

*Woolen-Carpet Factory.*—Brick warehouse and hand loom weaving room \$1.25, scouring house and drug room \$1.50, stable and wagon shed \$1.50, dye house \$1.50, main mill \$1.75, boiler and dry house \$3.00, picker house \$3.00.

*Hemp-Cordage Mill.*—Dwelling houses on lot \$1.50, storehouse and blacksmith shop \$2.00, hemp storehouses \$2.00, main mill and preparing house \$3.25, engine and boiler house \$3.25, machine shop \$3.25.

*Shoddy and Weaving Mill.*—Main mill \$5.50, woolen picker \$6.50, shoddy picker and room \$8.00.

Rates as laid down by associations not of the unity of a rigorous compact, simply amount to a standard to be modified and deviated from according to circumstances; and, further, any particular risk of a given *class* might contain less or more of the inflammabilities constituting the *general* hazard of its class. Concessions on the class premium charged, according to exemptions from the general hazard of the class, were rarely denied, and under pressure of competition there would often be decrease in premium without less hazard and less cost otherwise. For the more complex hazards rating was beginning to be individualized rather than classified; that is to say, any given risk was treated, or beginning to be treated, as composed of more or less of the aggregate liability of its class of property, as defined by a detailed list or schedule, itemizing different sources of danger as present, or safeguards as absent, with specific charges therefor.\* In Philadelphia such schedule system was of slow development.

While fire insurance companies cannot exist without adequate rates, particular trades would now and then object to the premiums charged, in so far as such premiums affected them. While the fire premium on a given risk

\* The planing mill, as subject to charges for "deficiencies" from a given standard risk, the latter being supposed to represent the minimum hazard of its class, had an early rate inventory as follows:—

Standard Steam-Power Mill: Brick or stone building; metal or slate roof; detached brick or stone boiler house, with iron roof and girders and brick stack; brick shaving-room, patent blowers, night watchman, no sash or blinds manufactured; no dry room.

Rate for standard mill, . . . . . \$5.00  
Add for—



could scarcely be a precise mathematical quantity involving all the conditions of hazard and expense, it was, in many cases, a fair approximation to the sum of all the elements of cost, though in the foregoing minimum rates instances occur of manufacturing hazards, differing in fire cost as 1 to 2 or 3, rated alike. The lumbermen of the city came forward in 1873 as critics and correctors of insurance rates on their wood piles. Just previous to this, the lumber dealers on the Delaware front of the city had been under the necessity of offering a reward of \$500 for the detection of incendiaries—several of their board yards having been set on fire. Stocks of lumber in such places were in large part free from any manufacturing hazard (apart from shingle shaving), so the physical jeopardy, *per se*, was slight outside of exposure to fire by adjoining property, but such boards, posts, shingles, laths, etc., were especially liable to incendiarism as an unprotected inflammability. In 1852 the Philadelphia board put down \$2.00 as the "minimum" premium, and such rate remained unchanged in the subsequent revisions of the tariff. In 1867 the Underwriter's Exchange, retaining such rate for yards on the Schuylkill river front, reduced the rate to \$1.50 for timber stocks elsewhere; but such discrimination was found by after experience not to be warranted. With increase of steam-machine planing, and with lumber yard as an adjunct, the stock became exposed to a manufacturing hazard of very high jeopardy, and the temporary rating in 1872 of the Association of Fire Underwriters, in addition to adopting the 2 per cent. rate for the non-exposed lumber yard, charged 3 per cent., as has been cited, for the lumber with 50 feet of clear space from planing mill. The lumbermen, in convention, held that the yard, non-exposed by planing mill, was taxed far beyond its fire liability, though the data to sustain such assumption were not at hand, and an organization was decided upon to be entitled the Mutual and Joint-Stock Lumbermen's Insurance Company of Pennsylvania. This was the first insurance project in the special interest of a specific trade started in the city. Such projects rest upon the seemingly correct proposition that a particular interest best knowing itself can best insure itself, but such risks in one district are not numerous enough, and with many districts combining for the undertaking, the hazard more or less varies in the respective localities. Further, they have their initial stage in a false principle, insurance-wise. Reversing the insurance foundation, the dominant idea is not a particular measure of the *danger* of the risks, but the *safety* of the risks. As mere antagonisms to the underwriters' ratings, they soon collapse, and the corporations find that their ability to continue depends upon engaging in the general business according to its current conditions, and without any favoritism

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Metal stack on brick or stone base which rises at least 5 feet above boiler-house roof, . . .	\$ .50
Metal stack with boiler house not otherwise of the standard, . . . . .	1.00
Shingle roof, . . . . .	.50
Frame main-building, . . . . .	1.00
Frame boiler-house, . . . . .	1.00
No blowers, . . . . .	.50
Communication between main building and boiler room not cut off, . . . . .	.50
No brick shaving-room, . . . . .	1.00
Dry room, . . . . .	1.00
Manufacture of sash and blinds, . . . . .	1.00
No night watchman, . . . . .	.25

For water power, deduct one dollar from aggregate rate for steam power.

towards the originating hazards; attempts to make other hazards pay part of the fire loss of the chief class not being long successful. With the original plan modified, the Lumbermen's Insurance Company was incorporated June, 1873, and began business in December, and not as a merely lumber-insurance company; Hugh McIlvain, president, George G. Crowell, secretary. The Lumbermen's adopted a metal building mark, the last of such badges affixed to city buildings. The design was the monogram of the company within four logs intersecting near the ends. The Sun Fire Insurance Company also began in December, with a charter of date of April 26, 1870—name changed from Safety Insurance Company to Sun Fire Insurance Company January 27, 1874; Nelson F. Evans, president, William H. Haines, secretary.

The business proportions of the Philadelphia fire insurance companies existing at the close of 1873 were as follows, according to the first annual report of the Pennsylvania insurance department:—

PHILADELPHIA FIRE INSURANCE COMPANIES—JOINT STOCK.

COMPANIES.	Risks in force, December 31, 1873.	Net premiums received, 1873.	Net losses paid, 1873.	Gross premiums received from organization to date.	Gross losses paid from organization to date.
Advance, . . . . .	\$ 231,996	\$ 1,854	. . . . .	. . . . .	. . . . .
American, . . . . .	43,928,670	373,643	\$ 460,948	\$4,195,537	\$3,133,914
Fame, . . . . .	7,415,573	106,548	57,698	505,044	349,222
Fire Ins. Co. of County of Phila.,	3,668,276	19,228	6,749	249,211	197,553
Fire Association, . . . . .	120,489,153	808,366	135,841	2,651,391	965,485
Franklin, . . . . .	191,891,834	1,347,489	1,165,534	12,571,056	8,799,123
German, . . . . .	4,616,938	28,504	12,252	60,779	21,029
Girard, . . . . .	40,630,465	420,005	135,734	2,665,378	1,201,177
Jefferson, . . . . .	2,937,949	17,594	3,845	234,619	72,590
Lumbermen's,* . . . . .	474,155	4,377	. . . . .	4,434	. . . . .
Manayunk, . . . . .	427,239	8,297	532	9,787	532
Mechanics', . . . . .	5,144,705	12,403	3,984	121,777	61,878
National, . . . . .	20,079,564	450,766	175,362	640,652	207,096
Pennsylvania, . . . . .	63,023,045	727,272	518,313	4,160,674	3,772,194
Penn., . . . . .	15,171,586	361,882	136,568	440,490	137,398
People's, . . . . .	3,534,357	59,764	† 25,897	. . . . .	. . . . .
Reliance, . . . . .	11,276,125	83,462	36,522	749,219	458,984
Safeguard,‡ . . . . .	1,574,969	26,029	2,279	26,938	2,279
Spring Garden, . . . . .	16,078,512	12,543	6,167	. . . . .	1,500,000
State, . . . . .	685,613	13,491	15,980	45,912	22,708
Sun,* . . . . .	. . . . .	. . . . .	. . . . .	103	. . . . .
Teutonia, . . . . .	2,801,574	17,008	1,847	43,081	3,904
United Firemen's, . . . . .	8,686,093	13,152	5,283	226,853	28,337

Official figures of the capital paid up of these companies commencing subsequent to January 1, 1870, and also the People's and the United Firemen's, were as follows: Advance \$15,150 (impaired), German \$100,000, Lumbermen's \$82,820, Manayunk \$74,500, National \$300,000, Penn \$200,250, People's \$200,000, Safeguard \$200,000 (assets "unsatisfactory"), State \$39,725 (impaired), Sun \$50,000, Teutonia \$200,000, United Firemen's \$93,543.

\* To date of February 28, 1874.

† Besides \$297.87 inland losses.

‡ From July 15, 1873, to March 16, 1874.

Risks in force of the Philadelphia companies, as given, included perpetual and temporary risks—the latter not having, mainly, more than one year to run. The perpetual risks were as follows:—

COMPANIES.	Perpetual risks.	Deposits.	Annual interest premium at 6 per ct.
American, . . . . .	\$10,745,172	\$279,578	\$16,775
Fame, . . . . .	913,000	23,545	1,413
Fire Association, . . . . .	61,779,274	1,513,248	90,795
Fire Insurance Company of County of Philadelphia, . . . . .	1,970,926	51,749	3,105
Franklin, . . . . .	77,885,041	1,399,864	83,992
German, . . . . .	1,201,725	24,536	1,472
Girard, . . . . .	3,290,949	94,072	5,644
Jefferson, . . . . .	1,438,842	33,604	2,016
Lumbermen's, . . . . .	48,000	1,078	65
Manayunk, . . . . .	63,200	1,340	80
Mechanics', . . . . .	4,774,025	105,194	6,312
National, . . . . .	196,525	4,929	296
Pennsylvania, . . . . .	15,135,263	400,878	24,047
People's, . . . . .	53,300	1,341	80
Reliance, . . . . .	2,907,741	82,121	4,927
Spring Garden, . . . . .	9,796,846	238,294	14,298
Teutonia, . . . . .	532,800	15,109	907
United Firemen's, . . . . .	7,003,665	163,598	9,816
	\$199,736,294	\$4,434,078	\$266,040

Total perpetual risks in Philadelphia companies were:—

18 Joint stock fire companies, . . . . .	\$199,736,294
5 Fire-marine companies, . . . . .	17,550,986
2 Perpetual offices, . . . . .	21,029,866
1 Assessment mutual, . . . . .	7,567,723
26	\$245,884,869

Besides which the Liverpool and London and Globe and the Royal carried some perpetual risks. The average deposit of the eighteen stock fire companies was 2.22 per cent., of the fire-marine companies 2.91 per cent., of the two perpetual offices 3.15 per cent.

PERPETUAL FIRE INSURANCE COMPANIES—NO STOCKHOLDERS.

COMPANIES.	Risks in force, Dec. 31, 1873.	Deposits, Dec. 31, 1873.	Losses paid, 1873.	Interest income, 1873.
Mutual Assurance, . . . . .	\$ 8,602,276	\$240,211	\$3,305	\$ 66,245
Philadelphia Contributionship, . . . . .	12,427,590	422,487	6,781	104,506
Total, . . . . .	\$21,029,866	\$662,698	\$10,286	\$170,751

A sudden demand by the policyholders on these companies for their deposits, all withdrawing excepting the officers and directors, would simply have left the corporations in a stronger *financial* position than before. They were established to endure until the city itself should be destroyed.



## ASSESSMENT FIRE INSURANCE COMPANIES.

COMPANIES.	Risks in force, Dec. 31, 1873.	Premium notes rec'd during 1873.	Assessments received during 1873.	Losses paid, 1873.
Frankford Mutual, . . . . .	\$1,450,063	. . . . .	\$ 8,698 88*	\$ 144 32
Independent Mutual, of Philadelphia, Bucks and Montgomery, . . . . .	5,266,977	. . . . .	6,852 56	8,650 58
Mutual Fire, of Germantown, . . . . .	8,615,144†	†	33,217 45‡	4,641 67
Manufacturers' Mutual, . . . . .	1,446,767	\$23,730 98	17,291 36	13,304 82
Mutual Fire, of Philadelphia, . . . . .	1,789,060	40,237 80	11,059 71¶	5,082 62

As the agencies were listed by the Philadelphia Insurance Chart, the roll was as follows in April, 1873, the companies receiving risks and premiums and paying losses during the year as follows:—

## PHILADELPHIA FIRE AGENCIES—OTHER-STATE COMPANIES.

COMPANIES.	AGENTS.	Pennsylvania risks written, 1873.	Penn'a premiums received, 1873.	Penn'a losses paid, 1873.
Ætna, Hartford, . . . . .	Boswell & Co.	\$27,022,048	\$376,256	\$220,094
Ætna, New York, . . . . .	Arrott & Wilson.	1,038,679	18,257	5,875
Adriatic, New York, . . . . .	Carstairs & Paulding.	361,690	4,310	80
Amazon, Cincinnati, . . . . .	Duy & Woods.	1,855,135	30,144	20,774
American Central, St. Louis, . . . . .	Carstairs & Paulding.	1,215,917	21,178	7,578
Atlantic, Brooklyn, . . . . .	Sabine & Allen.	1,003,146	15,333	8,258
Brewers', Wisconsin, . . . . .	Carstairs & Paulding.	2,624,354	37,134	14,466
Brewers and Maltsters, N. Y., . . . . .	Thos. J. Lancaster.	. . . . .	. . . . .	. . . . .
Black River, N. Y., . . . . .	Carstairs & Paulding.	726,508	13,229	9,824
Citizens', N. Y., . . . . .	Rood & Hawley.	1,388,431	13,001	4,165
Clay Fire and Marine, Ky., . . . . .	C. E. Rollins.	956,121	9,981	227
Commerce, Albany, . . . . .	W. D. Sherrerd & Co.	862,195	10,359	9,433
Commerce, N. Y., . . . . .	Thos. J. Lancaster.	931,225	13,361	2,418
Commercial, N. Y., . . . . .	Etting & Co.	609,211	5,903	. . . . .
Connecticut, Hartford, . . . . .	Sabine & Allen.	1,465,800	16,318	6,810
Continental, N. Y., . . . . .	Arrott & Wilson.	8,587,833	89,918	37,631
Exchange, N. Y., . . . . .	Evans & Hare.	726,746	8,356	1,725
Firemen's Fund, Cal., . . . . .	Arrott & Wilson.	814,659	11,278	10,004
Franklin, W. Va., . . . . .	Evans & Hare.	1,281,129	34,052	33,310
German American, N. Y., . . . . .	Arrott & Wilson.	5,325,496	77,884	45,089
Germania, N. Y., . . . . .	George Kraeutlet.	7,249,542	82,565	41,216
Great Western, New Orleans, . . . . .	C. E. Rollins.	. . . . .	. . . . .	. . . . .
Guardian, N. Y., . . . . .	Rood & Hawley.	405,515	4,368	. . . . .
Hanover, N. Y., . . . . .	Arrott & Wilson.	5,661,942	71,654	22,834
Hartford, Hartford, . . . . .	W. D. Sherrerd & Co.	9,857,625	110,826	35,638
Hibernia, Ohio, . . . . .	C. E. Rollins.	686,455	11,371	24,274
Hoffman, N. Y., . . . . .	Thos. J. Lancaster.	1,833,657	26,399	11,133
Home, N. Y., . . . . .	W. D. Sherrerd & Co.	12,963,609	166,160	55,560
Home, Ohio, . . . . .	Sabine & Allen.	1,064,769	17,760	3,312
Howard, N. Y., . . . . .	E. Franssen.	795,224	7,237	3,788
Irving, N. Y., . . . . .	"	935,322	10,183	703
Lamar, N. Y., . . . . .	W. D. Sherrerd & Co.	743,503	10,904	4,214
Lorillard, N. Y., . . . . .	Thos. J. Lancaster.	1,454,764	16,759	4,410
Manhattan, N. Y., . . . . .	W. D. Sherrerd & Co.	2,798,548	47,079	12,143

\* Cash received on policies, etc.

† Perpetual risks, \$7,567,723.

‡ Had \$106,205.79 premium notes liable to assessment.

§ Net cash premiums. Received also for deposits, perpetual risks, \$22,868.86.

|| Cash received for premiums.

¶ Cash received on policies issued.

COMPANIES.	AGENTS	Pennsylvania risks written, 1873.	Penn'a premiums received, 1873.	Penn'a losses paid, 1873.
Manufacturers' F. & M., Boston,	Sabine & Allen.	\$1,037,393	\$11,304	. . . .
Mercantile, N. Y., . . . . .	Thos. J. Lancaster.	1,326,853	11,743	\$ 1,845
Merchants', Providence, R. I., .	L. & G. E. Wagner.	1,274,970	21,728	8,098
Merchants', N. J., . . . . .	Arrott & Wilson.	2,007,622	26,711	10,009
Meriden, Conn., . . . . .	Wister & Peterson.	957,900	14,943	2,559
Mississippi Valley, Tenn., . . .	C. E. Rollins.	549,534	11,594	14,420
Narragansett F. & M., R. I., . .	L. & G. E. Wagner.	1,899,994	34,113	11,384
National, N. Y., . . . . .	Rood & Hawley.	243,925	2,954	. . . .
National, Conn., . . . . .	Arrott & Wilson.	2,496,053	32,611	9,126
New York and Yonkers, N. Y., .	" "	828,513	14,186	3,670
Niagara, N. Y., . . . . .	" "	4,684,993	65,423	33,879
North Missouri, Macon, . . . .	Duy & Woods.	. . . . .	. . . . .	. . . . .
Northwestern National, Wis., . .	John W. Cheney.	1,328,071	21,312	7,969
Old Dominion, Richmond, Va., .	"	1,128,000	22,234	19,276
Orient, Conn., . . . . .	Arrott & Wilson.	2,843,841	46,327	21,078
People's, Newark, N. J., . . . .	Rood & Hawley.	758,055	9,768	63
People's, Trenton, N. J., . . . .	Hollinshead & Buckman.	3,405,890	48,550	7,390
Phenix, Brooklyn, . . . . .	Prevost & Herring.	4,975,749	67,721	16,422
Phenix, Hartford, . . . . .	Boswell & Co.	4,917,171	82,198	21,784
Providence-Washington, R. I., .	Sabine & Allen.	478,034	6,142	641
Relief, N. Y., . . . . .	Thos. J. Lancaster.	497,975	5,181	812
Republic, N. Y., . . . . .	Arrott & Wilson.	2,410,063	38,406	25,889
St. Joseph F. & M., Mo., . . . .	Prevost & Herring.	917,087	12,657	167
St. Nicholas, N. Y., . . . . .	B. W. Harper.	523,850	5,538	. . . .
St. Paul F. & M., Minn., . . . .	Rood & Hawley.	963,838	14,026	2,709
Springfield F. & M., Mass., . .	Arrott & Wilson.	2,677,143	41,164	17,362
Standard, N. Y., . . . . .	Prevost & Herring.	973,977	11,191	4,786
Star, N. Y., . . . . .	Etting & Co.	833,796	12,272	4,097
State, Hannibal, Mo., . . . . .	W. Nevin Kremer.	. . . . .	. . . . .	. . . . .
Tradesmen's, N. Y., . . . . .	Carstairs & Paulding.	427,549	4,515	2,088
Union, Bangor, Me., . . . . .	Sabine & Allen.	. . . . .	. . . . .	. . . . .
Virginia F. & M., Richmond, . .	Amos T. Newbold.	395,238	5,982	. . . .
Westchester, N. Y., . . . . .	John W. Cheney.	4,319,600	64,196	43,980
Williamsburgh City, N. Y., . . .	Etting & Co.	1,151,986	18,171	4,522

## PENNSYLVANIA STATE COMPANIES.

COMPANIES.	AGENTS.	Total risks written, 1873.
German, Erie, . . . . .	John W. Cheney.	\$28,711,320
Pottsville Mutual, . . . . .	B. W. Harper.	1,031,113
Iron City, Pittsburgh, . . . . .	Hollinshead & Buckman.	1,850,270
Lancaster, Lancaster, . . . . .	" "	17,206,820
Farmers' Mutual, York, . . . . .	W. Nevin Kremer.	15,807,272
Firemen's, Altoona, . . . . .	Lowe & Davis.	. . . . .
Williamsport, . . . . .	B. W. Harper.	. . . . .
Rochester, . . . . .	W. Nevin Kremer.	1,484,340
Wyoming, Wilkes-Barre, . . . . .	Hollinshead & Buckman.	8,242,472
Underwriters' (mutual), Altoona, .	Lowe & Davis.	158,729
Allemannia, Pittsburgh, . . . . .	William C. O'Neill.	34,480,110
Union, " . . . . .	"	2,468,247
Birmingham, " . . . . .	"	3,189,089
Newtown, Bucks county, . . . . .	C. E. Rollins.	2,125,939
Keystone, Reading, . . . . .	W. D. Sherrerd & Co.	1,834,794
Armenia, Pittsburgh, . . . . .	Sabine & Allen.	8,485,999
Lycoming, Muncy, . . . . .	William H. Whitall.	46,191,231
Alps, Erie, . . . . .	Wister & Peterson.	8,112,573

## FOREIGN COMPANIES.

COMPANIES.	AGENTS.	Penn'a risks written, 1873.	Penn'a premiums received, 1873.	Penn'a losses paid 1873.
Commercial Union, London, . . .	Carstairs & Paulding.	\$3,691,818	\$ 48,025	\$ 8,248
Hamburg-Bremen, Hamburg, . .	Atwood Smith.	1,407,997	12,266	. . . .
Imperial, London, . . . . .	Prevost & Herring.	8,633,274	61,805	43,243
Lancashire, Manchester, . . . .	Thos. J. Lancaster.	4,305,203	54,812	13,919
Liverpool and London and Globe, Liverpool, . . . . .	Atwood Smith.	9,578,225	118,370	41,166
London Assurance Corporation, London, . . . . .	Wister & Peterson.	4,434,682	50,154	12,899
North British and Mercantile, Edin- burgh, . . . . .	W. D. Sherrerd & Co.	5,317,764	94,287	53,303
Queen, Liverpool, . . . . .	Sabine & Allen.	9,146,729	106,190	29,764
Royal, " . . . . .	George Wood.	28,388,629	397,040	193,799

Additions to the foregoing list of other-State and foreign companies in 1873, after April and up to May, 1874, were the following companies and authorized Philadelphia agents:—

## OTHER-STATE COMPANIES.

COMPANIES.	AGENTS.	Penn'a risks written, 1873.	Penn'a premiums received, 1873.	Penn'a losses paid 1873.
Ætna, Chicago, . . . . .	C. E. Rollins.	. . . . .	. . . . .	. . . . .
American Mutual, N. J., . . . .	A. F. Sabine.	. . . . .	. . . . .	. . . . .
Amity, N. Y., . . . . .	David B. Hilt.	. . . . .	. . . . .	. . . . .
Atlantic and Pacific, Chicago, . .	John C. Hinds.	\$244,025	\$ 5,607	. . . . .
Atlantic Fire and Marine, R. I., .	Charles E. Mather.	38,205	368	. . . . .
Capital City, Albany, . . . . .	"	. . . . .	. . . . .	. . . . .
City, Providence, R. I., . . . .	"	. . . . .	. . . . .	. . . . .
Citizens', Mo., . . . . .	Chas. S. Hollinshead.	316,695	6,540	. . . . .
Citizens', N. J., . . . . .	Louis Wagner.	851,104	16,570	\$ 685
Columbia, N. Y., . . . . .	David B. Hilt.	383,577	4,151	. . . . .
Dwelling House, Boston, . . . .	William H. Love.	. . . . .	. . . . .	. . . . .
Eliot, Boston, . . . . .	F. O. Allen.	. . . . .	. . . . .	. . . . .
Equitable, Tenn., . . . . .	William Arrott.	110,940	2,266	. . . . .
Equitable Fire and Marine, R. I.,	Louis Wagner.	148,900	1,899	975*
Faneuil Hall, Boston, . . . . .	"	240,850	3,549	318
Farragut, N. Y., . . . . .	David B. Hilt.	646,636	6,541	2,580
Firemen's, Dayton, O., . . . . .	George E. Wagner.	. . . . .	. . . . .	. . . . .
Firemen's, Boston, . . . . .	F. O. Allen.	. . . . .	. . . . .	. . . . .
Firemen's Fund, N. Y., . . . . .	B. W. Harper.	. . . . .	. . . . .	. . . . .
First National, Mass., . . . . .	Frank A. Page.	. . . . .	. . . . .	. . . . .
Franklin, Ind., . . . . .	James H. Sherrerd.	257,874	3,438	. . . . .
Glen's Falls, N. Y., . . . . .	Tattnall Paulding.	. . . . .	. . . . .	. . . . .
Globe, Ill., . . . . .	B. Horner.	. . . . .	. . . . .	. . . . .
Humboldt, N. J., . . . . .	F. P. Hollinshead.	. . . . .	. . . . .	. . . . .
Jefferson, Steubenville, O., . . .	Charles Tredick.	. . . . .	. . . . .	. . . . .
Kansas, Leavenworth, . . . . .	"	. . . . .	. . . . .	. . . . .
Manufacturers', N. J., . . . . .	William Arrott.	1,037,393	11,304	. . . . .
Maryland, Baltimore, . . . . .	David Ginther.	. . . . .	. . . . .	. . . . .
New Jersey Fire and Marine, . .	J. A. Cloud.	. . . . .	. . . . .	. . . . .
New Orleans Mutual, La., . . . .	A. Picolet.	733,281	14,686	. . . . .
Oswego and Onondaga, . . . . .	John W. Cheney.	. . . . .	. . . . .	. . . . .

\* Losses incurred.



COMPANIES.	AGENTS.	Penn'a risks written, 1873.	Penn'a premiums received, 1873.	Penn'a losses paid 1873.
Peoples', Tenn., . . . . .	F. P. Hollinshead.	\$547,917	\$8,527	\$1,139
Potomac, Md., . . . . .	David Ginther.	. . . . .	. . . . .	. . . . .
Prescott, Boston, . . . . .	Amos T. Newbold.	. . . . .	. . . . .	. . . . .
Ridgewood, N. Y., . . . . .	A. F. Sabine.	. . . . .	. . . . .	. . . . .
Rochester German, N. Y., . . . . .	Louis Wagner.	. . . . .	. . . . .	. . . . .
Roger Williams, R. I., . . . . .	Charles E. Mather.	210,731	3,546	. . . . .
Security, New Haven, . . . . .	Alex. W. Wilson.	. . . . .	. . . . .	. . . . .
Shoe and Leather, Boston, . . . . .	F. O. Allen.	. . . . .	. . . . .	. . . . .
Traders', Chicago, . . . . .	A. S. Gillett.	827,788	10,074	67
Washington F. & M., Boston, . . . . .	F. O. Allen.	. . . . .	. . . . .	. . . . .

## FOREIGN COMPANIES.

COMPANY.	AGENT.	Penn'a risks written, 1873.	Penn'a premiums received, 1873.	Penn'a losses paid 1873.
Scottish Commercial, Glasgow, . . . . .	Thos. J. Lancaster.	\$1,562,588	\$16,203	\$103*

\* Incurred.

With increase of amount written, an increase of average premium rate, non-State companies paid tax upon \$405,200 more Pennsylvania fire premiums in 1873 than in 1872, and despite of the fact that a financial panic began in September. Lessening trade and industrial activity had the normal result of decreasing fire loss. By the patrol report the loss in 1873 was \$951,523.04—883 fires and alarms; by the report of the fire department the loss was \$938,480—fires 620; fire marshal, loss \$950,603—fires and alarms 893. Defective working of the fire-alarm telegraph † was confusing the firemen, adding some percentage to what would have been the aggregate loss otherwise, the signals, according to the president of the board of fire commissioners, “sometimes sending the apparatus miles away in the wrong direction.”

† This description of fire-alarm telegraphy was given by the American Exchange and Review in January, 1874:—

“Our fire liability demands the most reliable and the most easily workable fire-alarm telegraph that can be attained, for, practically, the instantaneous and widespread summons is our best preventive of fire destruction. Time being the first element for consideration in our present fire extinguishing, it is essential to the useful working of the telegraph that it be always ready to respond promptly, surely, and definitely, to the demands upon it; that the arrangement of the outdoor structure be such as is at all times under the complete control of the central office; that any injury to the outdoor structure be instantly known and quickly repaired; and that a printed record of all the transactions of the day and of the fidelity of those in charge be produced. How far these conditions are met in the forms of the telegraph signals in use in cities and towns is now a subject of some discussion, and this may render a description of them serviceable. The most approved lines are so constructed that only a few stations are embraced in each, and they are so interwoven that contiguous stations are upon different lines; consequently an injury to one line, which might put one station out of order, would have no effect upon the next nearest station, because that one would be placed in connection with a separate and distinct line. The wires are generally very strong and of high conductive power. The instruments and appliances at the central office consist of batteries, switch-board, register or receiver, indicator, transmitter, clock, repeater, and testing apparatus. The apparatus outside of the office consist of automatic street signal boxes and mechanical gong strikers, all of which are essential for the operation of a complete system. The battery is well known as the source of power in all such telegraphic workings; the switch board is employed to transfer the electrical current from one wire to another for various purposes, just as an engine and train often require to be diverted from one track to another. The same name is given to these devices, viz., switch. When many wires are introduced, each requiring its own switches, such a collection is called a ‘switch board.’ Unlike the ordinary telegraph lines, the wires of the fire alarm do not pursue their course from the central office to the most distant

On the last day of 1873 the Germantown Deposit, Trust and Insurance Company, incorporated December 27, began business; J. Ringgold Wilmer, president, H. G. Stelwagon, secretary.

A charter was obtained from the Court of Common Pleas in January, 1874, incorporating the Central Fire Insurance Company of Philadelphia, under the terms of the act of 1856. It was a project of W. D. Halfmann, who had withdrawn from the National Fire. Its capital was to be \$200,000, and very soon an offer was made for the purchase for office purposes of the Schuylkill Navigation Company's building, on Walnut street, at \$90,000. The Advance being unable to make up its capital, withdrew from business in March, and in October following, B. W. Harper, president, was appointed receiver. There was no fraud alleged in connection with the Advance. "On the 17th of March, 1874, another examination [of the Safeguard] was had, when, to all external appearance, the company was in good condition"; and the Safeguard received the insurance commissioner's certificate of authorization—asset figures \$235,999. The People's Fire Insurance Company was "working" Texas and other distant localities. April 25, 1874, Commissioner Forster found in the People's "United States coupon bonds worth \$51,000, and a certificate of deposit for \$64,450 in the United States Banking Company." "These," said the commissioner, "with other assets, were accepted at the time as the *bonâ fide* property of the company, and actually worth what they purported to be. At this time the commissioner had little thought of fictitious bank accounts, or bogus or borrowed securities"; assets \$229,517.68, liabilities \$253,360.50, including \$200,000 cash capital. Then, in July following, the People's suffered again, as a convenient explanation, from an absconding manager and treasurer, who, having taken away the valuables of the company, the People's suspended. The corporation was dissolved by the court hearing the case,

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station, and then dipping into the earth consign the electric current to it, to be carried through it to the starting point—thus making the earth the conductor of the return current—but the fire-alarm currents, on the contrary, return by wires. The register, or receiving instrument, is the apparatus by which are recorded all the alarms that are sent into the central office, and all the tests of the day and night. All the signals sent over the wires are printed automatically on a roll of paper, and, at the same time, the clock at each hour strikes a type corresponding with the hour of the day, upon the same paper roll, and prints it. In some systems a bell is rung at every hour, to notify the operator in charge that the hour is come, and that he must proceed to test all his lines. The street boxes—a very important portion of the arrangement—are generally attached to poles, or to the engine houses. The outer box is securely made of iron and locked. The keys are in possession of the policemen, firemen, and insurance patrol. When a fire occurs in the neighborhood of any box, the box is opened by the first who obtains the key. Within the outer case is another, and attached to this a handle to be pulled down. The moment the opener of the box hears a response, he knows that his work is done. The mechanical construction of the inner box varies. In most, if not in all cases, however, it is constructed so as to communicate its special number and location to the central office. The apparatus for sending out the fire signals received in the manner just described, consists of the repeaters and the mechanical gong strikers. The repeater machinery enables the operator at the central office to send to any number of stations a mechanically correct numerical signal; to repeat it, whether short or long, at regularly timed intervals, and as often as may be deemed advisable or necessary. To receive the alarms thus sent out by the repeaters, machines are set up in the engine houses and other stations called mechanical gong strikers—large gongs struck with a hammer, moved with an apparatus which is driven by a weight, and wound up by a clock. A trigger, automatically pulled by a magnet connected with the mechanism, releases the machinery, and the blows are thus struck."

As modern cities change in their older sections from places of residence to marts of business, with withdrawal of the family guardianship over fire outbreaks, prompt notification by the fire-alarm telegraph serves somewhat to compensate for absence of such safeguard, with absence also of special watchmen. The Contributionship was continuing to note the enhanced hazard of buildings not having resident occupancy. In the nine-year period ended with close of 1870, there were 318 fires breaking out in buildings to which perpetual policies of the Contributionship applied—192 inhabited at night, 126 not inhabited at night. For this period "Average of loss per cent. of sums insured" was 68 $\frac{1}{2}$  per cent. on buildings inhabited at night, and on buildings not inhabited at night 80 per cent.



and J. W. Latta appointed receiver, W. H. Helmbold declining the appointment. "Where did the company obtain the money from to purchase these stocks?" was the question Commissioner Forster—profiting by previous experience—asked himself, after examining the wealth of the projected Central Insurance Company. The hunt for the source of the Central's possessions resulted in a criminal prosecution. The Central went into the hands of a receiver, the president went to the penitentiary for the term of seven and a half years, and the "experienced forger" who augmented the assets by raising stock of dividend-paying railway companies from one share to 100 shares, 200 shares, 300 shares, etc., in each case, was sentenced for nine years. The Manufacturers' Mutual Fire Insurance Company was dissolved October 17, and John R. Read appointed receiver. A stock department being attempted by this company, a court amendment to charter was obtained, and a statement was made to the insurance department showing a \$100,000 capital paid in and invested in mortgages and stocks. The commissioner said:—

The only valuable security in the lot was a Pennsylvania Railroad bond, and this the stockholder who put it in afterwards attempted to recover from the receiver by legal proceedings, alleging that it was given in payment of a conditional subscription, the understanding being that it should be returned in case the company could not pass muster.

The following is abstracted from the opinion of the court in the case of the Commonwealth *ex rel. vs.* the Manufacturers' Mutual Fire Insurance Company:

Pearson, P. J.: . . . . . There was then [August 15] presented [to the commissioner] a considerable amount of valuable securities, which Elijah Thomas, the treasurer, testified were received from Charles Matthews for stock of the company issued to him. These are probably the only assets of any considerable value, and amount, in the aggregate, to \$41,175. In an affidavit made by Mr. Matthews on the 9th day of October, 1874, presented to this court for the purpose of showing that the company was perfectly solvent, he states "that he transferred the following securities to the Manufacturers' Mutual Fire Insurance Company for stock at the following valuation." Then follows a list of the securities, amounting in all to the sum before stated, \$41,175, most of which are reasonably good, and represented by the affiant to be worth as much or more than the price at which they were valued in the annual report of the company. That annual report, made out and sworn to by the officers, states that those bonds, a list of which is furnished, "*are owned absolutely by the company*," and are valued at \$28,915. The company was dissolved by a decree of this court on the 22d of September, 1874, as before stated. Soon after, an application was made to the court for a rehearing. On the 15th day of October, 1874, this was refused, in an opinion filed, and on the 22d day of the same month a petition was prepared for presentation, and sworn to by Charles Matthews, asking the court to make an order on the receiver to re-deliver to him certain of the securities enumerated in his former deposition, on the ground that he had never received the stock of the company, but had only subscribed on certain conditions set forth in a receipt taken from Elijah Thomas, the treasurer of the company at the time. It is also said that many of the securities were not owned by Matthews, but were borrowed for the purpose of being deposited, and returned to the depositor a few days afterwards, and before the suggestion [of the attorney general] was filed.

These facts were well known to Matthews, and Thomas the treasurer, who concocted the plan between them; whether known to the other officers of the company or not, we are unable to say. The president and secretary, in their sworn report of the 31st of July, return all these securities as *absolutely* belonging to the company, and fix a value thereon. We must take it for granted, in the absence of proof, that they were not aware of the agreement between Thomas and Matthews, else they were equally guilty of fraud with the others. They were probably imposed on, at least charity would lead us to believe it.

In order to get back these securities, Matthews set up the defence that his subscription, which he had sworn to, was feigned and fraudulent. . . . . We consider the petitioner estopped by his acts, and declaration under oath, from claiming any portion of the securities described.



We are told that no cash policies were issued, that its business was all transacted on the mutual plan; yet the evidence shows that whilst 125 mutual policies were issued by the company, some 800 were taken for cash premiums; that the losses under mutual policies amount to about \$7,500, whilst those on cash policies amount to over \$45,000. It is also shown that the premium notes uncollected are probably of little value, and not sufficient in any event to meet the losses of the mutual branch. The assets of the stock company are nearly worthless, and never can realize sufficient to cover the losses. It may be possible that all of the assets of the company must be applied to meet all of the debts, yet we have no doubt that the premium notes must be first applied to the mutual losses, and the other assets to the losses of the other branch of the company. The whole will not half cover the losses.

It is urged that for another reason this corporation never had existence as a stock company; that no books were ever opened for subscription, no cash paid as required by real subscribers, and none paid on that of Mr. Matthews. It is very true no subscription book can now be found by the receiver, but, considering the trickery in the management, and the frauds attempted to be practiced on the insurance commissioner and on the court, we would scarcely expect to discover papers which would create legal liabilities, if it was the interest of the parties to conceal them. The company's officers reported a stock subscription to the amount of \$100,000, and exhibited some kind of trashy mortgages and other securities to cover that sum, and show all paid in. A corporator cannot set up the failure of the subscribers to make payment as a defence and that would not avoid the charter. (See 3 Grant, 200.) Matthews cannot avoid his subscription on account of not paying, as that was after the company was formed, which need not exact the cash, but can make its own contract. (See 4 Casey, 318; 1 Casey, 156; 5 Wright, 54.)

. . . . . In the first place, it is not shown that Thomas, the treasurer, had any authority to take a conditional subscription. In the next place, at the time Matthews was bound to speak and show that he was only a conditional stockholder. . . . . We cannot, consistently with our duty, order that the receiver deliver over any part of the bonds demanded by Matthews. On the contrary, if he was worth it, the value of those alleged to have been borrowed, and afterwards carried off by him, should be recovered by the receiver. The petition is dismissed at the cost of the petitioner.

If Charles Matthews considers that a bill in equity in the courts of Philadelphia will be more available for his purpose than his petition to this court, he is at liberty to file one against the receiver, but this permission must not stay the hands of the latter, or in any manner interfere with his collections or winding-up the business entrusted to his care. (11 Phila., 550.)

While such proceedings were in progress, the American Underwriters' Association appeared, beginning business in May, 1874,—incorporated June 14, 1873; W. L. Lance, president, J. Hervey Kase, secretary.

A. Wilson Norris, receiver of the Central's effects, received the property after removing an impediment. Thus: Three days after the dissolution of the company, a plaintiff in a suit against the company obtained judgment and issued execution, and the sheriff took possession of the property and refused to deliver it to the receiver. The receiver filed a petition in the District Court, Philadelphia, and asked that the levy and execution be set aside after argument.

Briggs, J.: Before the plaintiff obtained his judgment, the defendant corporation had been dissolved according to law, and hence had no legal existence at the time of judgment. Such a judgment is as ineffectual as would be a judgment given against a dead person, though such deceased person were alive at the institution of the suit. . . . . In this case, the defendants being *functus officio* at the time of the judgment, the judgment does not estop the receiver. . . . . (9 Phila., 219.)

Commissioner Forster was not directly successful in ferreting out the asset processes of the Safeguard, but the exposure came, nevertheless.

In the month of July, 1874, another examination was made at the office of the company without previous notice to its officers, when an inspection of its books, and other circumstances, satisfied the commissioner that the capital had never been paid in, that the bank balance, although certified to by the bank, was fictitious, and that the

valuable stocks and bonds exhibited at the former examination were either borrowed for the occasion or worthless. The officers of the company refused to submit these securities to inspection on this occasion, alleging that the key to the safe deposit vault was in possession of a member of their finance committee residing in Massachusetts. Information of these facts was immediately made to the attorney general, and he obtained from the court a rule upon the company to show cause why the corporation should not be dissolved. After hearing the case, the court delivered a verbal opinion justifying the proceedings of the commissioner in view of the suspicious circumstances, but at the same time annulling his action in the premises, and authorizing the company to resume business.

Notwithstanding the judgment of the court, the commissioner had no doubt of the fraudulent character of the company, and visited its office repeatedly with the hope of obtaining a view of the contents of the mysterious box. In this he was never gratified. The officers were never to be found at the office of the company. Finally, the arrest of its secretary upon the charge of dealing in fraudulent securities rendered further concealment unavailing. Proceedings were again commenced by the attorney general, and on the 5th of December, 1874, the court dissolved the corporation, and appointed J. W. Latta, Esq., receiver. (2d Pa. F. & M. Rep., xvi.)

For year ended October 17, 1874, the survey department of the Association of Fire Underwriters of Philadelphia made special examination of 1,292 risks. One hundred companies were now represented in the Association, and the committee on rates was in succession composed of the members of the Association as brought in in the alphabetical order of their names.

The American Underwriters' Association had been notified by the insurance commissioner, September 12, to discontinue business, but the Court of Common Pleas of Dauphin county rejecting securities rated at \$78,625, allowed the company sixty days in which to supply other securities, at the end of which time, the court accepted a mortgage for \$75,000 on a tract of Luzerne county coal land as adequate. The suspended corporation was authorized by the court to resume business December 17—"capital actually paid up in cash \$107,000." In 1874 this company wrote fire risks to the amount of \$2,673,056—premiums thereon, \$22,737.45. Total liabilities at end of year apart from capital, \$12,199.66. Amount of fire risks written in 1874 by the Germantown Deposit, Trust and Insurance Company, \$926,370; premiums, \$8,703.30. This company had a net surplus at the close of the year of \$1,475.51 over its cash capital of \$111,515 and other liabilities.

Its capital becoming, in the course of 1874, again impaired, the Penn Fire called in \$50,000 of its stock certificates, and made up a like amount of new capital, and there was an apparent net surplus of \$13,921.14 December 31, 1874, against \$24,705.45 at the corresponding date of the previous year. But the actual financial position of the company was dependent upon the actual value of "Loans on Bond and Mortgages, first liens, \$159,687.49," representing more than three-fourths of the capital, the company reporting as "received for interest on bonds and mortgages, \$6,741.05." Expenditures in 1874 exceeded the income by \$20,457. The Fame was impaired \$39,096.90; Manayunk, \$2,053.18. The capital of the National was reduced one-half during 1874, with \$30,000 received for capital; and its capital reduced to \$150,000, was impaired to the amount of \$3,368.87 by the showing. Amount of insurances written by the National in the year, \$25,238,947, at an average premium of 1.90 per cent. (\$2,146,110 in Pennsylvania). Income during the year was



\$392,452.50; disbursements, \$486,323.74. The company's assets were counted at \$349,204.81, and here again the question to be decided was, What are the assets actually worth?

With premiums at a higher scale than had ever before been attained in American fire insurance, there was shown but little opportunity for a new company, though neither weak nor fraudulent, to sustain itself. It was easy enough to attribute the decline of an experimental office to the "rascality" of this or that individual, but the "rascal" would gain more by putting his project upon a secure foundation, than by destroying it, and it might not have been impossible to have found in one or more sections of the United States one or more insurance companies so established. One truth stands out clear through the insurance record, which is that where fraud has caused one failure, incompetency has caused twenty. A prominent characteristic of incompetency is, that through resulting weakness, in nine cases in ten it develops into fraud, and the capital of Cræsus, combined with the wisdom of Solomon, Necker and De Moivre, cannot save an insurance company from weakness when there is not practical underwriting skill, and a skill that underwrites, so to speak, the funds as well as the risks. There was, as to Philadelphia, more insurance fraud *disclosed* in 1874 than in the deceits of 1855-64, but the later depravities were concocted chiefly for the purpose of deceiving the State insurance department, and seemed to have somewhat less purpose to cheat policyholders than the earlier villainies. Companies, however, with poor reputations are driven to accept inadequate rates—the department's discoveries removed obstructions out of the paths of legitimate enterprises—and with a resolution announcing "much satisfaction," the Association of Fire Underwriters greeted the work of the commissioner; and as to further exposure, the Association tendered that official the coöperation and support of its members.

Philadelphia fire losses continued to decrease in 1874, and the aggregate premium receipts were somewhat less than in 1873.

A decision was reached January, 1875, by the Supreme Court on certificate from Nisi Prius, as to the contribution or otherwise of a specific policy associated with general policies, in which *Sloat vs. Royal Insurance Company* was adopted, and *Merrick vs. Germania Insurance Company*—disregarded. This was an amicable action. George Roedel & Co. occupied a building on Third street, as shoe dealers and manufacturers. The first and second floors were used as salesrooms, and the third and fourth as a factory. They had a large stock of boots, shoes, etc., manufactured and unmanufactured, including materials for the same, and machinery, tools, fixtures, and sewing machines. Fire occurred February 17, 1872.

#### INSURANCE.

##### *General.*

Stock in the *whole* building, third and fourth floors *included*.

Policy No. 1,002,742—Royal Insurance Company, . . . . .	\$10,000
" " 1,325,541—Liverpool and London and Globe Ins. Co., . . .	5,000
" " 358,745—Franklin Fire Insurance Company, . . . . .	5,000
	<hr/>
	\$20,000



*Specific.*Stock on *third and fourth floors.*

Policy No. 754,553—Royal Insurance Company, . . . . . \$8,000

Machinery, etc., *third and fourth floors.*

Policy No. 754,553—Royal Insurance Company, . . . . . \$2,000

## Loss.

Loss on stock in the salesrooms (*first and second floors*), . . . . . \$29,986 76" " " *third and fourth floors*, . . . . . 8,840 73" " *machinery, etc., third and fourth floors*, . . . . . 2,500 00

So, upon a loss of \$38,827.49—\$20,000 of insurance applied generally; and \$8,000 specifically to \$8,840.73 of loss.

Accounting *first* for the loss on stock on the third and fourth floors, to which stock loss only the specific policy of the Royal applied, the adjustment was:—

*Loss on stock on third and fourth floors, \$8,840.73.*

Royal Insurance Company, . . . \$10,000,	General policy pays . . \$3,157 40
Liverpool and London and Globe, 5,000,	" " " . . 1,578 70
Franklin Fire Insurance Co., . . 5,000,	" " " . . 1,578 70
Royal Insurance Company, . . . 8,000,	Specific " " . . 2,525 93
	<u>\$8,840 73</u>

In accordance with this, the Royal paid on account of the specific stock insurance \$2,525.93, without prejudice to the insured's right to claim any further sum which they might be entitled to by any other method of adjustment which should be judicially determined to be correct. If the three general policies on the stock, under the circumstances did not contribute to the loss on stock on the third and fourth floors, then the whole amount of policy No. 754,553 of the Royal upon that specific stock was due and payable to plaintiffs.

The judgment was for the plaintiffs for the remaining \$5,474.07.

Royal Insurance Company *vs.* Roedel *et al.* *Per Curiam:* This case is ruled by that of Sloat *vs.* Royal Insurance Company. (13 Wright, 14.) The loss, in this instance, exceeds the entire insurance, general and specific. The loss in the first and second stories of the building largely exceeded the entire amount of the general policies. So the loss in the third and fourth stories exceeded the amount of the special policy. It is clear, therefore, that the general and special policies covered, in fact, different subjects, and that the loss under each was more than sufficient to exhaust its entire amount. A rule of average which would exempt the general policies from a portion of their peculiar loss below, in order to carry it to the relief of the special policy above, and thus to exonerate each from a portion of a total loss of different subjects, would directly contradict the very spirit and intent of the contract of insurance; the subjects being different, and the loss upon each being greater than the insurance on each specially applicable to it, it is evident that the average would effectuate no equity it was intended to cover. We do not think Merrick *vs.* Insurance Company (4 P. F. Smith, 277,) is sufficiently clear on this point to overrule Sloat *vs.* Insurance Company. Judgment affirmed. (28 P. F. Smith, 19.)

In February the National was not in position to meet current claims, and the managers proposed to creditors a compromise paying 40 per cent. March 10, the unpaid losses were \$154,461, unearned premiums \$235,000, and the assets were now valued at \$168,066. In the figures of the insurance department report for December 31, previous, the net amount of unpaid losses was \$54,218.08, unearned premiums (reinsurance) \$101,360.00, and \$5,854.68 reclaimable deposits on perpetual policies. The corporation was brought

into court, but its creditors escaped a receivership, the National having previously made an assignment to James A. Freeman, and the court granted the request to continue the assignee. After this, a third dividend—10 per cent.—was payable out of the assigned estate of the Enterprise, making 65 per cent. of their claims so far received by the creditors of the Enterprise.

In January, city councils had appropriated \$24,650 for the expenses of the fire-alarm telegraph, and at a special meeting of the Association of Fire Underwriters it was resolved to "advocate a reduction of rates of insurance on all mercantile risks, upon such an improvement of the fire-alarm telegraph as will make it better available for the purpose intended"; the rate of fire loss being a question of promptness and celerity of alarm at fire outbreak, and speed of conveying the apparatus to the site of the incipient conflagration. Fire losses in their fluctuation now proceeding at a minimum rate, the tendency was towards reduced premiums. March 29, a reduction was made by the Association on crude petroleum in first-class yards, decreasing from 6 and 6½ per cent. to 5 and 5½ per cent. Then, New York companies not having Pennsylvania authorization were receiving in New York Philadelphia risks at much lower rates than the Association's standard, and such rates as would not be taken by the companies of the Association, which as yet retarded utter demoralization. At end of its third year the Association numbered one hundred and four companies in its membership. In the course of the year the Association modified its tariff of minimum rates, being enabled to do so by "the efficiency of the fire department and the fire patrol"; and eighty rate circulars were issued. In the remainder of this year (1875) after the annual meeting of the Association, the fire losses in the city approached one million dollars.

In November the State insurance department, upon examination, ascertained that, of the mortgages then held by the Penn Fire, those on properties in Trenton, N. J., and Chicago, Ill., were of much less value than nominated on the face, and stocks, bonds, and loans on collateral were equally doubtful. During 1875 the disbursements of the Penn exceeded the receipts by \$55,699.07. With this exhausting process for a company having no net surplus and weak in the basis of its capital, the report for the close of 1875 claimed assets to the value of \$328,032.29, against \$313,774.59 of liabilities. An inventory of the assets of the National Fire Insurance Company appearing towards the close of the year, showed a total appraised value of \$95,674.21.

In Pennsylvania, during 1875, there were \$493,075,392 of fire risks written by authorized companies (exclusive of State mutual offices), which continued to do business in the State in the following year, with premiums and losses as follows:—

	Fire risks written.	Premiums received.	Losses paid.
Pennsylvania joint-stock companies, . . .	\$212,131,866	\$2,682,514 69	\$1,207,106 39
Other-State joint-stock companies, . . .	202,006,858	2,572,594 88	1,654,738 12
U. S. branches of foreign companies, . . .	78,936,668	1,062,501 56	584,379 76
	<u>\$493,075,392</u>	<u>\$6,317,611 13</u>	<u>\$3,446,227 27</u>

In the year 1875, the Pennsylvania Fire Insurance Company completed its semi-centenary. The officers and directors for such year were:—

John Devereux, President.

William G. Crowell, Secretary.

*Directors:*John Devereux,  
Daniel Smith, Jr.,  
Isaac Hazlehurst,Thomas Robins,  
Thomas Smith,  
Henry Lewis,J. Gillingham Fell,  
Daniel Haddock, Jr.,  
Franklin A. Comly.

This year the Pennsylvania wrote \$47,499,487 for an aggregate premium of \$648,474.66; losses incurred \$309,042.00. From organization to the close of 1875, the premium receipts were \$5,550,855.40, losses paid \$4,411,193.00; aggregate dividends declared \$1,819,000.00. Rate of fire loss to premium for the fifty years was 79.5 per cent., leaving 20.5 per cent. of premiums for expenses. Dividends on capital were now at the rate of 10 per cent. per annum (\$40,000); interest earnings of investments (1875) \$77,112; total assets at the close of the year \$1,559,104—net surplus \$375,665.

There were two additions in 1875 to European companies transacting fire insurance in the city—one, *La Caisse Générale des Assurances Agricoles et des Assurances contre l'Incendie*, of Paris. W. Nevin Kremer and James L. Ferriere, Philadelphia directors, issued in the year, in the State, policies aggregating \$3,977,729.17 of fire risk, premiums \$44,635.68; losses incurred \$28,114.66. The other European company was the Guardian Fire and Life Assurance Company of London, (Charles Platt, agent,) admitted October 18,—writing \$252,500.24 of Pennsylvania fire risks by December 31; premiums \$2,913.43; losses incurred \$1,936.86. Three Canadian offices had agencies in the city.

Fire Marshal Thompson enumerating from different sources of information the fire losses of Philadelphia from 1855, and somewhat reducing previous figures, showed for the twenty years ended December 31, 1875, 9,833 actual fires, with total loss of \$25,233,549—annual loss fluctuating from \$242,000 in one year to \$4,212,855 in another. The two decades compared as follows:—

Total fires.		Total losses.	Total fires.		Total losses.
1856 } to 1865 }	. . . . . 3,679	\$6,517,726	1866 } to 1875 }	. . . . . 6,154	\$18,715,823
Fires per annum.    Losses per annum.    Loss per fire.					
Average, 1856-65, . . . . .		367.9	\$ 651,773		\$1,772
"    1866-75, . . . . .		615.4	1,871,582		3,041

The first of these decades embraced the period of the civil war, with its preceding financial panic and subsequent trade activity attended with a general advance in commercial prices. In the second decade, a period of great manufacturing growth culminated with prices receding. In the panic year, 1873, the losses were but 44 per cent. of those of 1872.

By the results of 1875, the condition of the companies, as affected by dividends, was improved, compared with the previous year. With dividends of Pennsylvania companies doing a fire and fire-marine business equal, in the aggregate in 1875, to 11.33 per cent. of the premium receipts, there was a residue of 1.06 per cent. of premiums to go to surplus. Commissions to agents amounted to 11.61 per cent. of the premiums; all other expenses, 17.48 per cent. There was a question between the companies and the State insurance department as to the countings affecting the actual net surplus, or surplus for



dividends. Most of the State charters required a reservation of all premiums on undetermined risks, fire as well as marine, while the State laws for department accounting admitted the premium representing the expired time of outstanding fire policies to the net surplus. Accounting the whole premium on undetermined fire risks as to be reserved, the outgoes of 1874 had encroached upon the aggregate capital; the disbursements of 1875 left an earned surplus of \$1,868,834 after charging all premium on undetermined fire risks as liability. Some companies claimed that interest earnings were for dividends, irrespective of the effect upon the annual balance-sheet. To the contrary, the commissioner held that "the question for the company, in determining the propriety of a dividend, is not the source of profits, but their actual existence after first securing the integrity of their capital," under the conditions prescribed by the charter.

Now came the centennial of American independence. Its coming was marked with jubilation. In its commemoration, the arts were to be shown in their development, as the flower of the aloe crowns its years. It had been suggested that it would be befitting the occasion to have, in connection therewith, an illustration of the progress of insurance in the country, and the economic results of the institution; and in relation to conflagration, discovery and invention could be shown both as repressive and inciting agencies. A committee of the National Board of Fire Underwriters, a representation of the Chamber of Life Insurance, in connection with representatives of other interests, had visited the Centennial exhibition buildings in November, 1875, their construction being then in progress, but no insurance exposition followed; the proposition of the Centennial committee of the National board not being successful. Some consideration was given as to the effect of the celebration, which comprehended the period from May 10 to November 10, on the general fire hazard of the city, but the fire cost of crowds, excitements, excesses, and the various *feux de joie*, was hardly calculable. The Philadelphia companies insuring Independence Hall protested against a proposal to reopen the steeple to visitors, as increasing the fire jeopardy beyond its normal degree. The space in Fairmount Park appropriated to the detached Centennial-buildings comprised 236 acres. It was estimated that the value of buildings and contents would exceed fifty million dollars. Builders' risk had been written on the structures while in progress. Atwood Smith, president of the Philadelphia Fire Patrol, was chosen to organize a fire brigade of 150 men for duty at the Centennial grounds, with the requisite apparatus and equipment.

The stage reached by the Penn Fire has been in part stated. The Penn was "weak in the basis of its capital," in that the greater part of such capital was made up of mortgages put in in lieu of money, with a sort of understanding that the dividends declared would offset the interest due under the mortgages. In 1875 only \$3,060 37 were received as such interest, the dividend expectation failing; then to dissatisfied stockholders their mortgages were returned on surrendering their stock, and, according to Commissioner Forster, "these shares were again exchanged by the company for mortgages of less value." January

31, 1876, the Penn was notified to discontinue business, with permission to effect reinsurance in *La Caisse Générale* for sixty days. Then, rule being granted in Court of Common Pleas, Philadelphia, requiring the corporation to show cause why it should not be dissolved, the company made an assignment; William M'Michael, assignee. (The like proceedings which had been instituted against the State Insurance Company, were followed by a discontinuance of business which proved to be permanent.)

The New Jersey Fire, Marine and Inland Insurance Company, of Camden, (writing fire risks only,) which began September 1, 1873, had at the close of 1875, \$4,593,347 of insurance in force—average premium 1.31 per cent. Most of the stockholders of this company were residents of Philadelphia, and, April 8, 1876, before the passage of the Pennsylvania insurance incorporation act of May 1, a charter was procured from the Court of Common Pleas, Philadelphia, and thereunder the New Jersey was organized as the Philadelphia Fire Insurance Company, commencing May 1; J. T. Audenried, president, George E. Wagner, secretary,—the latter being succeeded at the next official term by Robert B. Beath.

July 1, three persons employed to procure fraudulent securities to make up the "show capital" of the Safeguard, were sentenced in the Court of Quarter Sessions as follows: Peter Burns, fine \$500 and two years' imprisonment in the Eastern penitentiary; Robert H. Wishart, fine \$1, imprisonment fifteen months in the county prison; Joseph A. Calvert, \$1, and six months in the county prison.

The Centennial International Exposition (194 buildings, chiefly of wood,) was now in progress. Perpetual insurance had been written on the Memorial Hall building (granite, brick, iron and glass,) at 2½ per cent. deposit; paintings and statuary in this hall (main contents), 1½ per cent., six months. On contents of Machinery Hall (iron and glass) rates varied, according to article and position as well as company, from 2½ to 5 per cent; ground area covered was nearly thirteen acres. In Machinery Hall an insurance of \$160,000 was placed on the large Krupp cannon. Goods in Main Exhibition building (22.27 acres—iron, glass, stone and brick,) were charged for fire insurance from 2½ to 3½ per cent.

As completed, May 10, the organization of the Centennial fire-department was composed of one captain, two lieutenants, ten sergeants, five engineers, four drivers, and 153 firemen and patrolmen, under the general direction of Atwood Smith, with two Silsby and two Amoskeag steam fire-engines; and two steam engines on exhibit were placed in readiness for service, with supply of hose, ladders, extinguishers, etc. So equipped, this department was called into action, from March 13 to December 16, thirty-four times—five times outside the grounds. (Of the fires occurring in the temporary wooden constructions outside the exposition grounds, one burned about twenty buildings.) The steam fire-engines were in service at nine fires, the chemical engines eight times; other fires were put out by hand extinguishers, of which 110 were ready for use. The highest loss was in a restaurant, October 5, about \$23,000. Cause

of this fire was a woman's dress hanging on gas bracket and taking fire from the gas jet. A threatening fire outbreak occurred June 25, in Agricultural Hall (building, wood and glass). A match upon the floor being trodden upon, fired the Brazilian cotton-exhibit, but the flame was extinguished with a loss of but \$700. The other ignitions were immediately suppressed.

*Causes of Ignition.*

Curtain and lamp, . . . . .	1	Melting metal (plumber), . . . . .	1
Defective boiler furnace (boiler house), . . . . .	1	Red-hot coals (falling on floor), . . . . .	1
Defective range, . . . . .	2	Spark from locomotive, . . . . .	6
Fire drying, . . . . .	1	Steam hoisting-crane (upsetting), . . . . .	1
Friction match, . . . . .	1	Spontaneous ignition—damp hay, . . . . .	1
Gas leakage, . . . . .	1	“ “ chemicals, . . . . .	1
Gas jet, . . . . .	1	“ “ oiled rags, waste, straw, . . . . .	5
Gasolene, . . . . .	1	Unknown, . . . . .	2
Glass-melting pot (bursting), . . . . .	1		—
Glue pot (upsetting), . . . . .	1		33
Incendiarism, . . . . .	1	Alarm, . . . . .	1
Lighted smoking-pipe, . . . . .	1		—
			34

Apparatus and other devices designed for extinguishing incipient and even advanced fires, were somewhat numerous exhibited at the exposition. One was a paper box having separate compartments, each containing a distinct chemical; the box to be thrown upon the fire to generate, as claimed, an adequate volume of carbonic acid. One chemical fire-extinguisher was combined with a water chamber on wheels and a telescopic fire-escape ladder. Another extinguisher was an engine having cylinders arranged for use of chemicals or water solely. The acid and the alkali in separate cylinders, with sunken perforated tops, communicated with a stream of water forced by pumps actuated by levers, and fed from the water tanks. There were, also, fire escapes shown in the form of extension ladders and ropes over friction pulleys.

A new contract of the Girard Fire, named in recognition of the time of compilation, The Centennial Policy, was as follows:—

No. ....	\$1500.
GIRARD FIRE INSURANCE COMPANY OF PHILADELPHIA.	
Capital \$300,000.	Surplus over \$1,000,000.
This Company, in consideration of Eighteen and $\frac{75}{100}$ Dollars, do insure A. B. against Loss or Damage by Fire to the amount of Fifteen Hundred Dollars, \$1500, to wit:	
\$825 On Carriages; in case of loss, no one carriage to be valued over . . . . .	\$250
200 On Sleighs; in case of loss, no one sleigh to be valued over . . . . .	75
400 On Harness; in case of loss, no one set to be valued over . . . . .	75
50 On Stable Implements, including Robes, Whips and Blankets.	
25 On Office Fixtures and Furniture contained in brick and frame building occupied as a boarding and livery stable by the assured, situate ——— street, ———.	
Other insurance permitted.	

And the Girard Fire and Marine Insurance Company do hereby agree to make good unto the said assured, — executors, administrators and assigns, all such immediate loss or damage, no exceeding in amount the sums insured, nor the interest of the assured in the property, except as herein provided, as shall happen by fire to the property above specified, from the — day of — one thousand eight hundred and — at 12 o'clock at noon to the — day of — one thousand eight hundred and — at 12 o'clock at noon, the amount of loss or damage to be estimated at a sum not exceeding the actual cash value of the property at the time of the loss, and to be paid sixty days after notice, proof, and adjustment thereof, in accordance with the terms and provisions of this policy, unless the property be replaced, or the company have given notice of their intention to rebuild or repair the damaged premises.



1. If an application, survey, plan, or description of the property herein insured is referred to in this policy, such application, survey, plan or description shall be considered a part of this contract, and a warranty by the assured; and any false representation by the assured of the condition, situation or occupancy of the property, or any omission to make known every fact material to the risk, or an over-valuation, or any misrepresentation whatever, either in a written application or otherwise; or if the above-mentioned premises shall be occupied or used so as to increase the risk, or the risk be increased by the erection or occupation of neighboring buildings, or by any means whatever within the control of the assured, without the assent of this company endorsed hereon; or if it be a manufacturing establishment running in whole or in part over or extra time, or running at night, without special agreement endorsed on this policy; or if the property be sold or transferred, or any change takes place in title or possession, whether by legal process, or judicial decree, or voluntary transfer or conveyance; or if this policy shall be assigned before a loss, without the consent of the company endorsed hereon; or if the interest of the assured in the property, whether as owner, trustee, consignee, factor, agent, mortgagee, lessee, or otherwise, be not truly stated in this policy; or if the assured shall keep gunpowder, fireworks, nitro-glycerine, phosphorus, saltpetre, nitrate of soda, petroleum, naphtha, gasoline, benzine, benzole or benzine varnish, or keep or use camphene, spirit gas, or any burning fluid or chemical oils, without written permission in this policy; then, and in every such case, this policy shall be void.

2. This insurance does not apply to or cover jewels, plate, watches, musical or scientific instruments, piano-fortes, ornaments, medals, patterns, printed music, printed books, engravings, paintings, picture-frames, sculpture, casts, models or curiosities, unless particularly specified in this policy. This company shall not be liable by virtue of this policy, or any renewal thereof, until the premium therefor be actually paid; nor for loss by theft before, at, or after a fire; nor for money or bullion, bills, notes, accounts, deeds, evidences of debt, or securities of property of any kind; nor for any loss or damage by fire caused by means of an invasion, insurrection, riot, civil commotion, or military or usurped power; nor for any loss in or on buildings unprovided with good and substantial stone or brick chimneys; nor in consequence of any neglect or deviation from the laws or regulations of police where such exist; nor for any loss caused by the explosion of gunpowder, camphene, or any explosive substance; nor by lightning or explosions of any kind, unless fire ensues, and then for the loss or damage by fire only, which loss shall be determined by the value of the damaged property after the casualty by explosion or lightning; nor for damage caused by an earthquake, or wind, or hurricane; nor to goods in show windows, where the fire originates from the lights in said windows; nor for loss or damage caused by removal of property from a building, except it be proved that such removal was necessary to preserve the property, in which case the damage shall be borne by the assured and the company, in proportion as the sum hereby insured bears to the whole value of the property insured. Looking-glasses and plate glass over three feet square, wall paper and bordering over fifty cents per piece, decorative painting, stucco work, and fancy flooring, over the cost of plain painting, plastering and flooring, are not included in this policy, unless specified.

3. If a building shall fall, except as the result of a fire, all insurance by this company on it or its contents shall immediately cease and determine. If the premises are not occupied, at the time of effecting this insurance, or if vacated during its continuance, for the purpose of changing tenants, or otherwise, unless made known to this company, and endorsed hereon, this policy shall be void.

4. If the interest of the assured in the property be any other than the entire, unconditional, and sole ownership of the property, for the use and benefit of the assured, or if the building insured stands on leased ground, it must be so represented to the company, and so expressed in the written part of this policy, otherwise the policy shall be void. When property has been sold and delivered, or is otherwise disposed of, so that all interest or liability on the part of the assured herein named for loss thereon by fire or otherwise has ceased, this insurance on such property shall immediately terminate.

5. If during this insurance the above-mentioned premises shall be used for any trade, business or vocation, or for storing, using or vending therein any of the articles, goods, or merchandise denominated hazardous, or extra hazardous, or specially hazardous, in the second class of hazards printed on the back of this policy; or if the occupation of such premises be changed from one of the class denominated extra hazardous or specially hazardous to that of another of the same class, except as herein specially agreed to in writing, upon this policy; then, and from thenceforth, so long as the same shall be so appropriated, applied, or used, this policy shall cease and be of no force or effect.

6. The best endeavors of the assured shall be used in saving and protecting the property from damage at and after the fire; and in case of failure so to do, this company will not be liable for damage caused by such failure; and there can be no abandonment to the company of the property insured.

The use of general terms, or anything less than a distinct, specific agreement, clearly expressed, and endorsed on this policy, shall not be construed as a waiver of any printed or written condition or restriction therein.

7. Unless notice of all other insurance upon property hereby insured shall forthwith be given by the assured, and endorsed upon this policy, or otherwise acknowledged in writing by the company, this policy shall be void. This company shall be liable only for such ratable proportion of the loss or damage happening to the subject insured, as the amount insured by this company shall bear to the whole amount insured thereon, without reference to the dates of the different policies, or their validity, or the solvency of the underwriters; (and the amount to be paid shall not in the aggregate exceed the amount insured by this policy.) Other insurance, noticed in the body of this policy, shall be held as being in force, until the notice of its discontinuance be endorsed hereon. Each building must be separately insured; and in like manner, a separate sum insured on the property contained in each.

Property held in trust or on commission must be insured as such. Goods on storage must be separately and specifically insured, otherwise this policy shall not cover such property or goods.

NOTE.—By “property held in trust,” is intended property held under a deed of trust, or under the appointment of a court of law, or property held as collateral security; in which latter case this company shall be liable only to the extent of the interest of the assured in such property.

Reinsurance in case of loss to be settled in proportion as the sum reinsured shall bear to the whole sum covered by the reinsured company.

8. This insurance may be terminated at any time at the request of the assured, in which case the company shall retain the customary short rates for the time the policy has been in force. This insurance may also be terminated at any time at the option of the company, on giving notice to that effect, and refunding a ratable proportion of the premium for the unexpired term of the policy.

9. Persons sustaining loss or damage by fire shall forthwith give notice of said loss to the company, and as soon after as possible render a particular account of such loss, signed and sworn to by them, stating whether any and what other insurance has been made on the same property, giving copies of the written portion of all policies thereon, also the actual cash value of the property and their interest therein, for what purpose and by whom the building insured, or containing the property insured, and the several parts thereof, were used at the time of the loss, when and how the fire originated, and shall also produce a certificate under the hand and seal of a magistrate or notary public (nearest to the place of the fire, not concerned in the loss as a creditor or otherwise, nor related to the assured,) stating that he has examined the circumstances attending the loss, knows the character and circumstances of the assured, and verily believes that the assured has, without fraud, sustained loss on the property insured to the amount, which such magistrate or notary public shall certify. The assured shall, if required, submit to an examination or examinations, under oath, by any person appointed by the company, and subscribe thereto when reduced to writing, and shall also produce their books of account and other vouchers, and exhibit the same for examination at the office of the company, and permit extracts and copies thereof to be made; the assured shall also produce certified copies of all bills and invoices, the originals of which have been lost, and shall exhibit all that remains of the property which was covered by this policy, damaged or not damaged, for examination, to any person or persons named by the company.

When personal property is damaged, the assured shall forthwith cause it to be put in order, assorting and arranging the various articles according to their kinds, separating the damaged from the undamaged, and shall cause an inventory to be made and furnished to the company, of the whole, naming the quantity, quality, and cost of each article. The damage to property not totally destroyed, unless the amount of said damage is agreed upon between the assured and this company, shall be ascertained by appraisal of each article by competent persons (not interested in the loss as creditors or otherwise, nor related to the assured,) to be appointed by the assured and the company; their report, in writing, to be made under oath before any magistrate or other properly commissioned person, one-half of the appraisers' fees to be paid by the assured. The company reserves the right to take the whole or any part of the articles at their appraised value; and until such proofs, declarations, and certificates are produced, and examinations and appraisals permitted by the claimant, the loss shall not be payable.

The cash value of property destroyed or damaged by fire shall in no case exceed what would be the cost to the assured at the time of the fire, of replacing the same; and in case of the depreciation of such property, from use or otherwise, a suitable deduction from the cash cost of replacing shall be made, to ascertain the actual cash value. And where buildings cannot be repaired (as under the Fire Limit ordinance), the company shall be liable for the amount only that would have replaced or repaired the same, had not such ordinance been in existence.

In case of loss on property held in trust or on commission, or if the interest of the assured be other than the entire or sole ownership, the names of the respective owners shall be set forth, together with their respective interests therein. If this policy is made payable, in case of loss, to a third party, or held as collateral security, the proofs of loss shall be made by the party originally insured. All fraud, or attempt at fraud, by false swearing or otherwise, shall cause a forfeiture of all claim on this company under this policy.

In case differences shall arise touching any loss or damage, after proof thereof has been received in due form, the matter may, at the written request of either party, be submitted to impartial arbitrators, whose award, in writing, shall be binding on the parties to the amount of such loss or damage, but shall not decide the liability of the company under this policy.

No repairs or alterations in the premises shall be made after a fire until notice is given to the company, and they have had an opportunity to view and examine the same.

This company reserves the right to replace, repair, or rebuild any building destroyed or damaged, and as a part of the preliminary proofs of loss, the assured shall, if required, furnish plans and specifications of the buildings destroyed, and the assured shall permit this company to take possession of the premises for the purpose of making said repairs, or for rebuilding the property burned, provided this company elect so to do.

The cash value of property destroyed or damaged by fire shall in no case exceed what would be the cost to the assured at the time of the fire of replacing the same, and in case of the depreciation of such property, from use or otherwise, a suitable deduction from the cash cost of replacing shall be made, to ascertain the actual cash value at the time of the fire.

10. This insurance (the risk not being changed) may be continued for such further time as shall be agreed on, provided the premium therefor is paid and endorsed on this policy, or a receipt given for the same, and it shall be considered as continued under the original representation, and for the original amounts and divisions, unless otherwise specified in writing; but in case there shall have been any change in the risk, either within itself or by neighboring buildings, not made known to the company by the assured at the time of renewal, this policy and renewal shall be void.


11. It is a part of this contract, that any person other than the assured who may have procured this insurance to be taken by this company, shall be deemed to be the agent of the assured named in this policy, and not of this company under any circumstances whatever, or in any transaction relating to this insurance, unless he or they hold a certificate of appointment, signed by the officers, and bearing the seal of the company.


12. No assignment of this policy shall be valid unless notice thereof be immediately given to the company, and said assignment be approved by the endorsement and approval of the president or secretary, prior to any loss. The company reserves the right to approve the transfer or not. And in case of loss, the assured shall assign to this company all his right to recover satisfaction therefor from any other person or corporation, with a power of attorney to sue for and recover the same at the expense of this company. And if insured as a mortgagee, or on other interest not absolute, he or they shall assign





to this company the mortgages upon the premises insured, or other instrument of title or security, together with the debt or payment secured thereby, or so much thereof as will be sufficient to pay said loss. And a refusal to execute such assignment shall discharge this company from all liability under this contract.

13. It is furthermore hereby provided and mutually agreed, that no suit or action against this company for the recovery of any claim by virtue of this policy, shall be sustainable in any court of law or chancery, until an award shall have been obtained fixing the amount of such claim in manner herein above provided, nor unless such suit or action shall be commenced within six months next ensuing after the loss shall occur; and should any suit or action be commenced against this company, after the expiration of the aforesaid six months, the lapse of time shall be taken and deemed as conclusive evidence against the validity of such claim, any statute of limitation to the contrary notwithstanding.

 Fences and other Yard Fixtures, Store Furniture and Fixtures, Plate Glass doors and windows, (when the plates are of the dimensions of nine square feet or more,) and Frescoed Work, or gilding on walls or ceilings, are not covered by insurance on the building, but must be separately and specifically insured.

 BUILDERS' RISK.—The working of carpenters, roofers, tinsmiths, gas-fitters, plumbers, or other mechanics in building, altering or repairing the premises named in this policy, will vitiate the same, unless permission for such work be endorsed in writing thereon, *except in dwelling houses*, where five days are allowed for incidental repairs.

 GAS.—The generating or evaporating within the building, or contiguous thereto, of any substance for a burning gas, is prohibited under this policy, unless permitted in writing hereon.

 And it is hereby mutually understood and agreed by and between this company and the assured, that this policy is made and accepted in reference to the foregoing terms and conditions, and to the classes of hazards and memoranda printed on the back of this policy, which are hereby declared to be a part of this contract, and are to be used and resorted to in order to determine the rights and obligations of the parties hereto, in all cases not herein otherwise specially provided for in writing, and that no condition, stipulation, covenant, or clause hereinbefore contained, shall be altered, annulled, or waived, or any clause added to these presents, except by writing endorsed hereon, or annexed hereto, by the president or secretary, with their signatures affixed thereto.

*In Witness Whereof*, The Girard Fire and Marine Insurance Company of the City of Philadelphia have caused these Presents to be signed by their President, and attested by their Secretary, in the city of Philadelphia, this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_.

ATTESTED.

.....Sec'y.

.....Pres't.

#### CLASSES OF HAZARDS.

The following Classes of Hazards are given, defining the terms used in the written and printed portion of this policy.

##### FIRST CLASS.

All Buildings used as Stores or Warehouses are privileged to contain any of the articles enumerated in this class.

##### Not Hazardous.

The following wholesale stocks of Merchandise may be insured at 5 cents per \$100 in addition to the rate of the building.

Carpets,	Rice,	Hides and sole leather (if average
Dry goods, foreign and domestic,	Spices,	clause, 20 per cent. off.)
exclusively in unbroken and un-	Sugars,	Teas,
opened packages,	Furs and peltries in unbroken	Threshed grain,
Coffee,	packages,	Tobacco, plug and twist, in boxes
Flour,	Grocers' stocks (not to embrace	or kegs (wholesale), <i>a</i>
Provisions,	stocks mainly of liquors),	Whalebone.

*a* See Extra Hazardous.

##### Hazardous—No. 1.

The following stocks of Merchandise are charged 15 cents per \$100 more than the building, but do not increase the rate of the building or its other contents.

Bristles and hair cloth (wholesale),	Dry goods (wholesale),	Indigo,
Boots and shoes (wholesale), in-	Fruits (wholesale),	Leather, morocco and findings,
cluding india-rubber boots and	Floor matting,	Machinery (on sale),
shoes,	Furs (unpacked),	Nails,
Billiard rooms,	Glass (window, in boxes),	Paper, in reams and straw boards,
Carpets (retail),	Gunny cloth and gunny bags,	Paper hangings (wholesale),
Carriage trimmings,	Hardware (staple), in packages,	Pins,
Carriages and sleighs,	Hats and caps (wholesale), with-	Sewing machines (stocks of),
Corsets (wholesale, stocks of),	out manufacturing,	Saddlery and harness,
Clothing (wholesale), ready-made,	Hatters' furs,	Salt,
Cordage,	Hops, in bales,	Trunks (stocks of).
Cotton yarn,	Ironware, stoves, tinware and	
	hollow-ware (wholesale),	



*Extra Hazardous—No. 1.*

The following stocks of Merchandise are charged 25 cents per \$100 more than the building, but do not increase the rate of the building or its other contents.

Artificial flowers,	Glass ware, unpacked; looking-	Paper-hangings (retail),
Artists' materials,	glasses, unpacked,	Paper collars,
Band-boxes (stocks of),	Hardware and cutlery,	Perfumery,
Books,	Hats and caps (retail), without	Precious stones,
Boots and shoes (retail),	manufacturing,	Piano-fortes (in warerooms),
Brushes,	Hoop skirts and hoop-skirt mate-	Porter houses,
Cabinet-ware, without manufactur-	rials; no manufacturing,	Sheet iron and copper ware (re-
ing, repairing, upholstering or	House-furnishing goods (retail),	tail),
varnishing,	Iron goods, ornamental, japanned	Shirt manufactories (without laun-
China, earthen or glass ware, un-	and bronzed,	dry),
packed,	Iron (hoop, sheet and rod),	Silver and plated ware,
Clothing, ready-made (retail),	Jewellers and watchmakers' stocks,	Stationery,
Confectionery, without manufactur-	Kid gloves (stocks of),	Stoves (retail),
ing,	Liquor and lager-beer saloons,	Straw goods (wholesale and retail),
Corks,	Ladies and children's furnishing	Tailors' trimmings,
Dress trimmings,	goods,	Tin and hollow-ware (retail),
Dry goods (retail),	Laces and embroideries (whol-	Tobacco, leaf and cut, cigars and
Feathers,	sale),	snuff (wholesale and retail),
Fancy goods (wholesale and retail),	Lamps, without camphene, burn-	Teas, coffee and spices (retail),
Fishing tackle,	ing fluid, spirit gas or kerosene,	Umbrellas and parasols (wholesale
Fringes,	Metals, in bars, pig and tin plate,	and retail, with privilege to put
Fringe-making (hand-power),	Millinery goods,	together and finish by hand
Fruits (retail),	Millinery goods (wholesale and	only),
Furs, unpacked,	retail),	Watchmakers' tools,
Gentlemen's furnishing goods	Merchant tailors' stocks,	Watches, in packages, as imported,
(wholesale and retail),	Needles,	Worsted and fancy wools,
Gimps (stocks of),	Optical and mathematical instru-	Yankee Notions.
Glass, window or plate, unpacked,	ments,	

## SECOND CLASS.

All Buildings containing any of the articles of Merchandise enumerated in this class *above hazardous*, or in which any trade or occupation mentioned is carried on, must pay an additional premium corresponding to the rate charged for the merchandise, trade, or occupation as classified and enumerated.

*Hazardous—No. 2.*

The following Trades, Occupations, and Merchandise are charged 15 cents per \$100 more than the building, and require a corresponding rate upon all its contents.

Card printing (hand-power),	Hemp, in bales,	Pot, pearl and soda ashes,
Drugs, dry, in packages, (import-	India-rubber,	Sail making,
ers, stocks of),	Manila grass, in bales,	Sisal grass, in bales,
Flax, in bales,	Men's straw hats and caps (stocks	Sulphur,
Flocks,	of),	Tallow,
Grocers' stocks (retail),	Oakum, in bales,	Whisky, wines and liquors, in casks
Gum copal,	Oil (fish and vegetable),	and packages (stocks of),
Gum shellac,	Oil cloths (stocks of),	Wool.
Gutta percha,	Paints ground in oil,	

*Extra Hazardous—No. 2.*

The following Articles of Merchandise subject the building and its contents to an increased charge.

Agricultural implements, including	Gas fixtures,	Pitch,
seedsman's stocks,	Gutta-percha goods (except boots	Pocketbook makers' stocks,
Alcohol,	and shoes),	Rags, in bales,
Apothecaries' stocks,	Hay and straw, in bales,	Resin,
Asphaltum,	India-rubber goods (stocks of) ex-	Ship chandlery,
Brushmakers' stocks,	cept boots and shoes,	Silversmiths' stocks,
Car springs of gutta percha or	Liquors, in glass, unpacked,	Spirits of turpentine,
India-rubber,	Looking-glasses, with privilege of	Tar,
China, earthen or glass ware, with	packing or unpacking,	Teas, coffees and spices (retail
privilege of packing or unpacking,	Matches on sale (stocks of),	stocks of),
Cotton bats and wadding (stocks	Painters' stocks,	Tow, in bales,
of),	Paper boxes (stocks of),	Turpentine,
Daguerreotype and photographic	Pawnbrokers' stocks,	Upholsterers' stocks,
stocks,	Percussion caps,	Varnish,
Essential oils,	Piano-fortes, in warerooms,	Wine, in glass, unpacked.

*Extra Hazardous—No. 3.*

The following Trades and Occupations subject the building and its contents to an increased charge.

Auction stores,	Bottling cellars,	Electro-plating,
Bag-making (cloth) by hand-power,	Carving (by hand-power),	Furs, cutting and sewing, without
Bakeries, with ovens outside the	Coopers' shops (for strapping only),	fire heat,
building, and using coal only,	Copper-plate printing,	Gas-fitting,
Blacksmith shops,	Corset-making,	Gilding,
Block and pump making,	Daguerreotyping and photographic	Gun repairing,
Boot and shoe manufacturing (by	establishments,	Hoop-skirt manufacturing by
hand-power only),	Eating houses,	hand, without fire heat,

Hat (straw, grass or chip,) bleaching,	Plumbing and pewtering,	Saddlery and harness manufacturing,
Lithographers,	Rectifying liquors, by cold process only,	Taverns,
Map-mounting and varnishing,	Refectories,	Tin or sheet iron, or copper working,
Picture-frame joining,	Restaurants,	

*Specially Hazardous.*

The following Trades, Occupations, and Merchandise add to the rate of the building and its contents 50 cents and upwards per \$100, and to be covered must be specially written in the policy.

Acids, nitric, sulphuric, muriatic and other corrosive acids,	Gold-pen making,	Printing of books and job printing,
Bakeries, ovens using wood or shavings,	Gas-fixtures manufactory,	Printed music,
Bookbinders,	Hat and cap manufacturing and finishing,	Provisions in process of being smoked,
Boot and shoe manufactories (with fire heat),	Hemp, unpacked,	Rag stores,
Box repairing,	Hoop-skirt manufactories, by machinery,	Rags and paper stocks,
Breweries,	Houses being built, altered or repaired,	Saltpetre,
Brush and bellows manufactories,	Japanning,	Segar manufactories,
Burning fluid,	Jewelry manufactories	Shoddy,
Cabinet-making, and stocks of cabinet-ware (with privilege to varnish, repair and upholster),	Jewelry-case making,	Silversmiths' manufactories,
Camphene on sale,	Junk shops,	Sisar grass, unpacked,
Carving,	Lamp manufactories,	Smoke houses,
Coffee and spice mills,	Lampsellers stocks (with privilege of keeping camphene or kerosene),	Spirit gas, making or selling,
Confectionery manufactories,	Laundries,	Stave yards,
Cooper shops,	Lime, unslaked (stocks of),	Steam boilers, in use,
Cotton brokers' samples,	Livery stables,	Stove manufactories,
Cotton presses,	Lumber yards,	Theatres, and other places of public exhibition,
Cotton, in bales,	Manila, unpacked,	Tobacco manufactories,
Cotton, loose,	Mungo,	Tow, unpacked,
Cotton, unpacked,	Musical instruments, manufactories or stocks of,	Toys (shopkeepers' stocks of),
Drug stores, with privilege of compounding,	Nitrate of soda,	Trunk making,
Druggists' stocks (wholesale),	Oiled clothing (stocks of),	Type or stereotype foundries,
Ether,	Oils, resin, and similar,	Umbrella manufactories,
Fireworks,	Packing buildings and yards,	Upholstery manufactories,
Flax, unpacked,	Paper-bag manufactories,	Window-shade painting,
Fur, silk or wool-hat finishing (with use of fire heat to steam and block the bodies),	Paper-box and band-box making,	Wood and willow ware and baskets (stocks of),
	Perfumery manufactories,	Wool waste, and all mills, workshops and manufacturing establishments and all trades and occupations not above enumerated as hazardous or extra hazardous.
	Pictures and prints,	
	Pocketbook making,	

Declining in its fourth year, the Association of Fire Underwriters of Philadelphia had a membership of four Philadelphia companies and seventy-six non-State companies (fourteen agents), October 20, 1876. The committee on rates met eighty-six times in the year; a revised tariff was issued May 31, with concessions made in accordance with the facts ascertained by the survey department. There were 706 rates made as the results of special examinations.

May 3, the American Underwriters' Association stopped taking risks, and at the end of the year had but \$223,465 of insurance in force. *La Caisse Générale* was about withdrawing, temporarily, its Pennsylvania agency. Suit was pending against this company to recover claims arising from the reinsurance of the risks of the Penn. Fire. This French corporation contended that the reinsurance was but for forty days after April 7, 1876; losses during which time were estimated at \$10,825.61, and it was claimed that such liability had been reduced by certain payments to reinsured policyholders. With cancellation, after the Penn's assignment, of 3,282 policies (certificates for return premiums thereon \$42,294), the losses not included in the reinsurance were less than \$5,000.

The Northern, of London and Aberdeen, was in 1876 again authorized, resuming business in Philadelphia with Prevost & Herring as agents.



Both the fire marshal and the insurance patrol concurred in reporting the fire loss of the city in the Centennial year at \$1,034,807, or \$261,489 less than in 1875; with "carelessness" more than usually operative as fire cause, there was an increase in the number of fires, but the extinction was remarkably effective. "Coal oil" was charged with starting sixty-two of the fires.\* There was an increase, as reported, in authorized fire insurance in Pennsylvania of \$12,154,793 in 1876, as compared with 1875, the augmentation occurring in the other-State and foreign insurance companies; chiefly in the former. Fire premiums, however, decreased \$278,326, and against a loss decrease of \$142,948. Such figures indicate the characteristics of a current rate reaction.

In the contention between the assignee of the Enterprise Fire Insurance Company and the Fame Fire Insurance Company, the cause had been referred to George M. Dallas as examiner and master. Fifteen risks were reinsured by

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\* An act of February 14, 1868, provided:—

1. That no refined petroleum, kerosene, or burning oils, except in bond, or for shipment out of the State, shall be kept for sale within the limits of Philadelphia, unless such oils shall stand a fire test of 110° F., determined by Tagliabue's or other well-known instruments. The inspectors (whose duties and powers are detailed) shall collect ten cents per package, with power to enter and search for unsealed packages.

2. The violation of any part of this ordinance, or the adulteration of any such oils sold for burning purposes, selling without inspection and stamping, and also any evasion of inspection, shall be a misdemeanor, punishable by fine not exceeding \$500, and imprisonment not exceeding one year. In case of seizure for such violation, oils are to be sold, and the proceeds to go to the Association for the Relief of Disabled Firemen of Philadelphia.

3. This act has no application to oil in bond, or for shipment out of the State of Pennsylvania.

The act of April 4, 1873, entitled An Act to provide for the Better Security of Life and Property from the Dangers of Coal and Petroleum Oils, in Sections 1 and 2 was as follows:—

1. That no refined petroleum, kerosene, naphtha, benzole, gasolene, or any burning fluid, be they designated by whatsoever name, the fire test of which shall be less than one hundred and ten degrees Fahrenheit, shall be sold or offered for sale as an illuminator, for consumption within the limits of the commonwealth of Pennsylvania.

2. The said fire test shall be determined by an inspector appointed under the provisions of this act, who shall use Tagliabue's, or such other well defined instrument as may be used by the inspectors of export oil according to the following formula: Heat with alcohol, small flame; when thermometer indicates ninety degrees, remove lamp; at ninety-five, try for flash with small bead of fire on end of string held within a quarter of an inch of surface of oil; replace lamp and work oil up gradually from this point until the burning point is reached, removing lamp every four degrees, and allowing oil to run up three degrees before replacing lamp, flashing the oil each time just before lamp is replaced, until result is attained.

Other sections may be thus briefly stated:—

3. Defined the bonds, penalties, powers, duties and fees of inspectors, etc., and contained the following provision: "The said inspector shall provide, at his own cost, stencils for the purpose of branding packages, to read thus, 'State of Pennsylvania, fire test 110 degrees,' with name of inspector." If the fire test be higher than 110 degrees, that shall also be designated on the package.

4. The violation of any part of this act shall be a misdemeanor, punishable by a fine from \$250 to \$500, or imprisonment for one year, or both. Half the fine to go to the prosecutor, and half to the school fund of the district where the offence was committed. [The same destination for other fines in other sections.] If any person shall suffer in his person or property, through the violation of any one of the provisions of this act, the violator shall be liable to the sufferer for said damage.

5. All oils offered for sale that are adulterated, or not up to the fire test of 110° F., found in the hands of those who sell in less quantities than one barrel, shall be seized and sold "solely for redistillation," after ten days' notice.

6. Any inspector or deputy violating any of the provisions of this act, falsely branding, or neglecting to inspect when requested, shall be guilty of a misdemeanor, and fined \$250 to \$1,000, or imprisoned three months to one year, or both.

7. Required packages containing oil manufactured for export to be branded "for export." Any benzine, naphtha, or other hydrocarbons, shall be inspected and branded as "benzine," and not offered for sale for illuminating purposes. The use of such hydrocarbons is allowed for making gas, to be conducted in pipes to burners.

8. This act does not apply to oils or fluids manufactured for export from this State, or in transit through it.

9. Any one using barrels or packages not properly stamped, or removing the brands, shall be fined \$300 for every barrel or package so refilled or sold.

This act was repeated almost *verbatim* in one approved May 15, 1874,—the difference between the two being in respect to the appointment of inspectors. Another act, also of May 15, 1874, applied to the storage and the transmission of petroleum by pipes.



the Fame (February 8 to October 5, 1871,) in what afterwards became the burnt district of Chicago. The reinsurance by the Fame had been applicable to all risks taken by the Enterprise in Ohio, Indiana, Illinois, Missouri, Kentucky and Pennsylvania, excepting Philadelphia, variously freeing the Enterprise from loss. On the extra and specially hazardous classes the margin of reinsurance was above \$2,500 in the Enterprise policy up to \$5,000,—

Except where the interests insured in any one policy are therein so divided or apportioned as, in the judgment of the respective officers of said companies, not to subject either of them to a greater loss than \$2,500 by any one fire, in which case the Fame Insurance Company shall not be liable under this agreement for a greater sum than \$5,000 on any one policy on such property. But when the risk so assumed by the Enterprise Insurance Company shall exceed \$5,000, then each of the said companies shall be liable for an equal amount. Nor shall the Fame Insurance Company be liable under this agreement for a greater sum than \$5,000 on any single risk taken on any and all other property, except on dwelling houses and their contents. On all risks on dwelling houses and their contents over \$5,000 and under \$10,000, which the Enterprise Insurance Company may assume, the Fame Insurance Company hereby reinsures the sum which shall exceed \$5,000; but when the risk so assumed by the Enterprise Insurance Company shall exceed \$10,000, then each of the said companies shall be liable for an equal amount. Thus, for example, if such a risk on dwelling houses and their contents, or on a single dwelling and its contents, be for \$15,000, then each of the said companies shall be liable for \$7,500; but the Fame Insurance Company shall not, in any case, be liable under this agreement for a greater sum than seventy-five hundred dollars (\$7,500) on any single risk taken on dwelling houses and their contents, or on a dwelling house and its contents. The said reinsurances are to attach simultaneously with the insurances so assumed by the Enterprise Insurance Company, at the same rate of premium, and to be subject to the same risks, valuations, conditions and modes of settlement as are or may be adopted by the said Enterprise Insurance Company.

Aggregate amount named for reinsurance on the Chicago properties, afterwards burning, \$47,000. Report of master sustaining the claim of the Enterprise to receive payment according to the original policy liability, a decree was made for plaintiff in the sum of \$50,207.82 with interest. On appeal, the judgment of the Supreme Court was entered January 15, 1877, and the decree at *Nisi Prius* was affirmed. (2 Norris, 396.)

January 1, the Fame had an asset total of \$66,296.39 above its \$200,000 capital; total liabilities, other than capital, \$103,806.50—\$54,707.82 unpaid losses, including the \$50,207.82 claim of the Enterprise. The \$50,207.82 were paid by the Fame, January 19, and reinstatement of capital being found impracticable, the capital was reduced, with \$31,045.13 more paid in, to \$150,000, and though such capital was unimpaired, the Fame was in doubtful position as to continuing the struggle.

Among the non-State companies operating in the city before the act establishing a State insurance department went into effect, was the State Insurance Company of Hannibal, Mo., as before shown. One condition of its policy was the following:—

SEC. 12. . . . . No agent or other person, excepting one of the general officers of this company (and then only by an endorsement hereon, made and signed by said officer), is authorized to waive, change, alter or amend any condition or provision of this policy, or to obligate this company in any way, excepting as set forth in these printed conditions, and no act or omission on the part of any officer of this company shall be construed to operate as a waiver, unless so expressed in writing hereon. This policy is made and accepted, subject to the above expressed conditions. . . . .

A policy was executed in February, 1872, and in October following the company insured the interest of mortgagee of the property, and in February,

1873, renewed the policy. At the execution of the policy no notice had been given of the mortgage. The property burning, the secretary notified the insured that the company would replace it, directing the agent of the insured making out the proofs of loss not to complete them; the proofs were consequently not sent in within thirty days, as required by the policy, and the company did not replace the property.

In an action on the policy, Common Pleas, No. 4, the judgment was for the plaintiffs, and the Supreme Court, January, 1877, affirmed such judgment, holding that the insurance of the incumbrancer gave knowledge of the incumbrance when the policy was renewed, and such question of knowledge was for the jury, who had found a waiver of the required notice of mortgage. It was further held that the jury were justified in finding a waiver of the thirty days' notice. (2 Norris, 272.)

The long process of fraud, with occasional efforts at honest management, called the People's Fire Insurance Company, had its story closed, January 30, with these words of Receiver Latta: "I have carefully examined all the so-called assets that have come into my possession, and find them utterly worthless. . . . I am fully of the opinion that nothing will ever come to the creditors of the People's Fire Insurance Company." Receiver Latta found the Safeguard's liabilities \$37,762.50—\$11,283.78 return premiums, with the possibility of a small sum accruing from a suit for reinsurance against the Newtown Fire Insurance Company, of about \$4,500,—and "nothing for distribution." Some months afterwards the Newtown was dissolved by the Court of Common Pleas, of Dauphin county. Assignee Freeman, of the National, filed a bill in equity, claiming \$133,333.34 from Stine, Halfmann and others, on \$200,000 of the capital stock issued to them for \$66,666.66, etc.

*La Caisse Générale* reëntered the State June 8, 1877, and the Transatlantic Fire, of Hamburg, Germany, was admitted October 19,—Charles Tredick, attorney.

Agencies and local companies writing special risks were now experiencing the effect in competition of Philadelphia manufacturers receiving policies from Massachusetts and Rhode Island mutual companies unauthorized to assume risks under the laws of Pennsylvania, and paying no tax. Concerning the inspection of such risks, negotiations of terms of insurance, delivery of policies and settlement of losses, the prohibitions of the act of April 4, 1873, were of this scope, so far as the actions could be construed as taking place *within* the State of Pennsylvania:—

SEC. 9. It shall be unlawful for any person, company or corporation, to negotiate or solicit within this State any contract of insurance, or to effect an insurance or insurances, or pretend to effect the same, or to receive and transmit any offer or offers of insurance, or receive or deliver a policy or policies of insurance, or in any manner to aid in the transaction of the business of insurance without complying fully with the provisions of this act.

August 17, Dallas Sanders was appointed receiver of the American Underwriters' Association.



The assignment of the Penn Fire having been changed to a receivership (receiver's commission 5 per cent.), the receiver reported as disbursed in 1877, \$28,009.41, including 25 per cent. dividend to creditors and \$13,004.82 in hand. Total claims allowed by auditor \$91,792.91—suit for reinsurance, as well as suits upon mortgages, notes and claims, still pending.

This year, and the previous one, a Fairmount Insurance Association was operating in Philadelphia in the assessment way. It gathered in \$6,391.88 in premium notes and \$2,691.82 in cash for premiums and assessments in 1877. A Universal Fire Insurance Company had been doing the like since early in 1875, and by December 31, 1877, had secured cash for premiums and assessments to the amount of \$30,634.08. The Centennial Fire Insurance Company, originating in 1876, wrote in 1877 \$89,354 of policy amounts, rated at \$1,119.50 cash premiums and \$50,147.50 of premium notes.

These three mutual companies, all incorporated by the Court of Common Pleas, received in all for cash premiums and assessments by the end of 1878 \$47,360.58, paying for losses \$9,305.74, while there remained due for losses and expenses \$23,901.93.

Two recent joint-stock incorporations—the Philadelphia and the Sun—withdraw from the agency business at the beginning of 1878, purposing to confine their writing to risks in Philadelphia and vicinity. The Sun transferred its outside risks to *La Caisse Générale*; the Philadelphia transferred part to this French corporation and part to the Liverpool and London and Globe. Results of the business in 1877, of the two companies, are indicated by the following:—

<i>Non-Pennsylvania Risks.</i>			
	Temporary risks written.	Premiums received.	Losses incurred.
Philadelphia, . . . . .	\$8,549,268	\$106,820 62	\$64,764
Sun, . . . . .	5,117,136	73,276 00	72,885
<i>Pennsylvania Risks.</i>			
Philadelphia, . . . . .	\$1,908,231	\$17,792 10	\$ 7,124
Sun, . . . . .	2,329,322	26,797 00	10,511

In 1877 the reëntered Northern, of London and Aberdeen, wrote \$2,250,889 risks in Pennsylvania; premiums thereon \$23,883, losses incurred \$20,447.

Eighteen hundred and seventy-eight, and electric illumination had come with its first glare in the city of Benjamin Franklin.\* From the tallow candle

\* In 1748, two years after Winckler, of Leipsic, transferred the charge of a Leyden jar across the Pleisze, Dr. Franklin made his first experiment in conducting electricity across a river as part of the path of the circuit, which he subsequently thus described:—

"Two iron rods about three feet long, were planted just within the margin of the [Schuylkill] river, on the opposite sides. A thick piece of wire, with a small round knob at its end, was fixed on the top of one of the rods, bending downwards, so as to deliver commodiously the spark upon the surface of the spirit [of wine]. A small wire fastened by one end to the handle of the spoon containing the spirit, was carried across the river and supported in the air by the rope commonly used to hold by, in drawing the ferry-boats over. The other end of this wire was tied [wound] round the coating of the bottle [Leyden jar]; which being charged, the spark was delivered from the hook to the top of the rod standing in the water on that side. At the same instant the rod on the other side delivered a spark into the spoon, and fired the spirit. The electric fire returning to the coating of the bottle, through the handle of the spoon and the supported wire connected with them.

"That the electric fire thus actually passes through the water, has since been satisfactorily demonstrated to many by an experiment of Mr. Kinnersley's, performed in a trough of water about ten feet long. The hand being placed under water in the direction of the spark (which always takes the strait or shortest course, if sufficient, and other circumstances are equal) is struck and penetrated by it as it passes." (Experiments and Observations on Electricity, made at Philadelphia, in America, by Benjamin Franklin, LL.D., and F.R.S., &c. Fifth edition, London, 4to., 37, 1774.)



and whale-oil lamp, and other and subsequent sources of lighting, this insurance record has run to the luminosity of magneto-electricity.\* Such illumination as not being a consequent of combustion, was viewed favorably, as a rule, in respect to lessening the fires having their origin in the common means of lighting. The problem of ignitions arising from electric illumination were, however, for the consideration of the fire underwriter. Experiments in incandescent lighting—that is, the use of enclosed carbon filaments or platinum wire at a white heat, in a vacuum or in nitrogen, instead of the “heated carbon vapor” of the open arc light—were not as yet successful. Heating came from any form or character of resistance intercepting the current. So with the current continued from a normal conductor to or through a thin copper wire, such wire flashed into flame. Ohm, the German physicist, after whom the unit of resistance was named, declared the “intensity ( $i$ ) of the circuit to be directly proportional to the electro-motive force ( $e$ ), and inversely to the resistance ( $r$ ) of the circuit.” Hence what may be called the normal net “intensity” became  $i = \frac{e}{r}$ . Assuming  $d$  as expressing other resistance than here implied, then  $\frac{e}{r+d} = \text{fire}$ ; *i. e.*, diminished power to overcome resistance. Magneto-electricity has greater “intensity” than the voltaic. Further, as the current follows the line of least resistance, short circuiting was always a possibility.

In the fall of 1877 some of the larger industrial establishments of the city experimentally tried such lighting, using the dynamo machines and lamps then introduced.

The unauthorized State Insurance Company of Hannibal, Mo., with its bankruptcy manifest, having made an assignment, the assignee instituted suit to recover money alleged to have been collected by the company's Philadelphia agents, Kremer & Elmes. The defence was that the company had no standing in court, not having taken out a Pennsylvania license. The United States

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\* Heat, magnetism, electricity; these three are one—but one of the three is not either of the other two. From Ampère's hypothesis, that all magnetic action is the attraction or repulsion of electrical currents, and the suggestion that the magnetism of a bar of iron consists of currents of electricity revolving at right angles to the length of the bar around each molecule of the metal, the next advance was made by Faraday in 1831, in fulfilling the idea that if magnetic conditions could be developed in a soft iron bar by passing a galvanic current around it, electricity ought to be evolved by or from magnetism as a reaction; and he ascertained that the rapid revolution in front of a magnet of an armature of soft iron having many coils of wire, produced electrical manifestations through the wire. Although at an earlier date the continuous current of the voltaic battery (chemically generated electricity) had caused, with slight breaks occurring in the circuit, a brilliant arc of light—or a disruptive discharge through the current being forced through compressed carbon-points kept a slight distance apart, but connected with the terminal cells—illumination thereby was costly and difficult, yet the arc produced by the disturbed galvanic current was used in Paris in 1846 in the opera of *Le Prophète*.

Rotation of armature by steam power unsuccessfully exercised the abilities of inventors seeking the production of currents by induction until about 1874, when the Gramme dynamo-electric machine was constructed. The specific components of this were two cylindrical electro magnets (wire around iron core), one above the other, the circular armature on a shaft between them, and the commutator. Insulated wire coils around the armature ring were looped together in pairs. The commutator was formed of copper strips, equal in number to the armature coils, placed radially edgewise around the shaft, and insulated from one another and the shaft. With these copper strips the pairs of armature wire coils were connected; bundles of soft iron wire resting upon the surface of the commutator conducted the currents generated in the armature to the external circuit.

The armature being placed between powerful magnetic poles, their attraction tended to prevent its movement, and the force overcoming such retardation was manifest as electric energy; the currents thereof moving alternately in opposite directions as the coils passed the two poles in succession, and the commutator, a metallic brush, caused the currents to take one direction.

So electric lighting became available

Circuit Court ordered the defendants to account, reserving a final decree, Judge Cadwalader saying that the case was one of great doubt, and if the defendants wished to test it, he would certify to a difference of opinion with Judge McKennan, so that the Supreme Court of the United States might decide the question.

Certain real estate in Philadelphia belonging to Charles T. Yerkes, insured in the Wyoming Insurance Company, having been destroyed by fire, the Kensington National Bank having obtained a judgment against Yerkes, served an attachment upon the company; the company claimed that the policy was void under its seventeenth condition, viz.:—

(1) The insurance by this policy shall cease at and from the time the property hereby insured shall be levied upon or taken into possession or custody under any proceeding in law or equity; (2) and should, during the life of this policy, an encumbrance fall or be executed upon the property insured, sufficient to reduce the real interest of the insured in the same to a sum only equal to or below the amount insured, and he neglect or fail to obtain the consent of the company thereto, then and in that case the policy shall be void.

The loss was total; value of property, \$60,000; debt of Yerkes to bank, for which it held judgment, \$148,614.63. At the trial in Common Pleas, No. 4, Yerkes testified that no levy was ever made upon the property. Decision was adverse to the bank's claim. The affirmative judgment of the Supreme Court was entered February 18, 1878.

*Per Curiam:* . . . . . The former clause (1) having relation to an act of law, this is intended to protect the company against the act of the assured himself. Hence, if he suffers a judgment to be entered against him, the encumbrance *falls*, and if he executes a mortgage, it is *executed* upon the property, and he must give notice and obtain consent; or, otherwise, if the encumbrance gives another a right, and lessens his own interest in the property to a sum not exceeding the amount in the policy, he forfeits his policy. (5 Norris, 227.)

Certain mortgaged premises were sold by the sheriff for an amount which did not satisfy the debt, and the premises were insured perpetually in the Spring Garden Fire Insurance Company. Reinstein, owner, had transferred the policies to Altemus, mortgagee, and then conveyed the houses to Mary L. Rafsnyder, who also received from Reinstein an assignment of the policies. Altemus assigned mortgages and policies to Hollis. At a hearing on bill and answer in Common Pleas, (Hollis *vs.* the Spring Garden Insurance Company, Edwin Rafsnyder and Mary L. Rafsnyder,) the opinion of the court was delivered by Hare, P. J.:—

The question before us is, who is entitled to the premium or deposit which was the consideration for the insurance? The fund in controversy is claimed by the plaintiffs as the assignees of the policies and of the bonds and mortgages which the policies were assigned to secure; by Mary L. Rafsnyder as the purchaser of the premises covered by the insurance; and, finally, by the Spring Garden Insurance Company, who, while alleging that her right is better than the plaintiffs', ask to set off a demand against her growing out of an independent transaction.

It results, from what has been said, that the controversy turns on the following point: Is a mortgagee, to whom a permanent insurance has been assigned as a security, entitled to the premium, on a sale being made of the mortgaged premises, which puts an end to his insurable interest and to that of the mortgageor? There can be little doubt that the inquiry should receive an affirmative reply. (12 Phila., 321.)

There was a narrow escape from a wide-spread general conflagration on the night of March 25, fire originating in a large iron-front building at Fourth and



Cherry streets, the second story of which was occupied as a shoe manufactory; moderate wind from the west. Six iron-front stores were wrecked, eighteen other buildings and contents were totally destroyed, eleven buildings were much damaged, and twenty-one others slightly. The ignitions from the flying cinders damaged two stores on Second street above Arch, and one on Front street above Arch. Wholesale stores, with stocks of petroleum, gasolene and alcohol, in the track of the flying cinders, escaped. As it was, the loss was limited to about \$750,000, but partially insured as follows:—

Other-State companies, . . . . .	\$136,800
Philadelphia companies, . . . . .	104,250
Foreign companies, . . . . .	20,000
	<hr/>
	\$261,050

The insured loss was less than that arising from the burning of a dry goods stock, January 31, previous, at 224 and 226 Chestnut street. The stock was appraised as at that date at \$311,532.13; total insurance (sixty-eight companies) \$322,500.00. Sale of goods reclaimed from the ruins realized \$29,447.71, making the net loss of the underwriters \$282,084.42; being 12.53 per cent. salvage on policy sum, with 9.44 per cent. salvage on goods.

As fires raged, magneto-electricity had been brought into service as a communicator, and telephonic communication—electric current produced by sound-waves—had been established between the Philadelphia fire-patrol station and engines Nos. 8, 20 and 22, and with President Atwood Smith's office and residence.

Philadelphia flour mills and the milling processes had not the character of those in other sections, which were developing dust explosions from small local discharges to powerful wide-spread fulminations; but among the incidents by which the progress of the arts was augmenting fires, cymogeme and rhigolene ice-making was a striking instance. This introduced the two most volatile products of petroleum refining for refrigerating by rapid evaporation, and such products are explosive with moderate heat when mixed with air.

In the insurance of mortgage interests the mortgagee had been gaining ground for some years, especially in respect to the extension of the doctrine of implied waiver. It was objected that the mortgagee was becoming a preferred insurant with privileges reaching beyond simple indemnification, while at the same time exempt from the obligations imposed on other insurants. To obviate this inconsistent position, a slip was drawn by A. C. Blodget, general agent of the Franklin Fire Insurance Company, making a special agreement with the mortgagee as payee. By it there was privity of contract between company and mortgagee, but measurably the agreement operated as an insurance of the mortgageor and mortgagee separately. It reduced responsibility of the mortgagee for acts of the mortgageor, yet did not free him from all executory conditions. Further, it insured only the debt due to the mortgagee, and eliminated all possible claim upon the mortgageor in addition to satisfaction of the debt by indemnification. The slip was as follows:—



PAYABLE, IN CASE OF LOSS, TO .....  
 MORTGAGEE, as interest may appear.

It is hereby understood and agreed that the following conditions shall apply to and form a part of this policy, and in all other respects the regular conditions of the policy shall remain in full force.

*It is hereby agreed*, that the said mortgagee's interest is the FIRST MORTGAGE on said property, and that this SPECIAL AGREEMENT is for the interest of the mortgagee, and that the policy shall not be invalidated AS TO SUCH MORTGAGEE ONLY, by any alienation of the title of the property, or any change of occupancy, increase of hazard, or by any lawful act or neglect of the owner, which shall hereafter occur, (unless the same is within the knowledge of the mortgagee.) *Provided, however*, that this special agreement SHALL NOT WAIVE any rights of the company to pro-rate with any and all other insurance on said property, as provided in said policy, whether the same be payable to such mortgagee or not. And (in case of loss) this company shall be liable for no greater proportion of any loss than the sum hereby insured bears to the whole amount insured thereon. And it shall continue to be optional with the company to cancel this policy and terminate the insurance AT ANY TIME, by refunding or tendering to the assured, or his representative, a ratable proportion of the premium. *Provided, however*, that this POLICY shall continue in force for the benefit (only) of said mortgagee for TEN DAYS after notice to said mortgagee of such cancellation with the assured, and then shall be void as to the mortgagee also.

*And it is further agreed*, that the mortgagee shall notify the company of any change of occupancy, change of title, or of any increase of hazard whatever, as soon as the same shall come to his knowledge, and pay additional premium (if required) at the established scale of rates for such hazards.

*And it is also agreed*, that whenever a loss shall occur, and the policy would be void as to the insured if this SPECIAL AGREEMENT had not been made, then before the company shall pay the mortgagee ANY SUM for loss under this policy, the mortgagee shall assign and transfer to the company AN INTEREST in all securities held for the mortgage debt, SUBROGATING THE COMPANY TO ALL THE RIGHTS of the mortgagee in the mortgage, and securities to an amount equal to the money to be paid mortgagee by this company, or the company may, at its option, elect to pay to the mortgagee the WHOLE SUM due and to become due on said mortgage and securities, and thereupon the mortgagee shall assign and transfer to the company ALL such mortgage and other securities, with full power to the company to collect the same in the name of the mortgagee or otherwise (but at the cost of the company). And in all cases of SUCH SUBROGATION, the mortgagee shall COVENANT AND AGREE, IN SUCH ASSIGNMENT, that the amount claimed of the company is a valid and subsisting debt under such mortgage and securities.

At the same time, Mr. Blodget was preparing a legal exposition of the fire policy entitled *Law of the Fire Insurance Contract*, treating of the terminology of the policy, written as well as printed, with copious citation of titles of adjudged cases supporting the interpretations and explanations given. Usages governing the construction of the contract were also elucidated. The work was not completed, but so far as it had progressed was printed.

Mr. Blodget was qualified to deal with a fire insurance theme from the standpoints of the lawyer, the underwriter, and the adjuster. The following, written by him to the *American Exchange and Review*, is quoted as showing his manner of judging a practical point which was having some attention at this time—the question, however, involving some of the qualifications of the physicist and chemist as well as those forenamed:—

The case now involving discussion in insurance circles is one where the damage and loss are conceded to have been caused by the *spontaneous heating* at the base and in the centre of a large pile or body of wool (on storage), to such an extent as to damage and render worthless the fibre *without combustion or even ignition*, and the question is: Is such a loss and damage one that is contemplated or covered by a policy "*against loss or damage by fire*," and is the claim one that can be enforced against the fire underwriters?

Damage to property (without ignition or combustion) by heat, radiated from combustion, would undoubtedly be a loss by fire within the terms and legal meaning of a contract to indemnify against loss or damage by fire. (10 Cush., 356; 13 Ill., 676; 11 Peters, 224; 9 Paige, 568; 21 Wend., 367; 11 Allen, 336.)

The facts in the case under consideration, however, are distinguished from the cases above cited, as in this case it is conceded that the proximate cause of the damage was not by radiating heat from flame or combustion of other inflammable material, nor even by ignition or combustion of the wool itself, but by a steady heat spontaneously generated by natural causes, sufficient to damage or destroy the fibre of the wool by chemical action or decomposition, without being intense enough to, at any time, produce ignition or combustion, and hence the damage was of the same character as if it (the property insured) had perished by decay, fermentation, rust, mould, "proper vice," or any other cause than destruction by fire or radiation from outside combustion. "Any damage occasioned by mere heat (however intense) short of combustion, or radiation from combustion, is not a loss by fire." (2 vol., Marsh on Ins. (3 ed.), 790; 6 Taunton, 436; 4 Camp., 360 and 361; Beaumont on Ins., 37.)

Cases somewhat analogous to the question under consideration often occur—a householder employs fire for domestic comfort, an artisan or mechanic to aid in manufacture, and the fire utensil or apparatus, or the article or material to which fire heat is applied, is damaged in the use or process; or floors, ceilings, paint, frescoing, or wall-paper of the dwelling house or building, or the carpets or other furniture contained therein, are damaged by escaping smoke, or heat radiated from the stove or furnace, *without ignition or combustion* of the damaged articles. Such damage resulting from heat purposely applied, or from reflected or radiated heat without ignition or combustion, is not, in a legal sense, a damage by fire, and is not a loss covered by a fire policy. (4 Camp., 361; 6 Taunton, 436; 4 I. A. an., 15; 19 I. A. an., 279; 14 N. H., 341; 11 Ohio, 146; 18 John., N. Y., 451; 6 Broder, 637; Ellis on Ins., 273; Stephen N. P., 1049; May on Ins., 487; Wood on Ins., 193; Beaumont on Ins., 39; 2 Marsh, 130; Holt, 126; 1 Bennett's Ins. Cases, 102; 37 Me., 256; 4 Comstock, N. Y., 326.)

Fire insurance premium is a price and a ratio. The twelfth annual meeting of the National Board of Fire Underwriters—Alfred G. Baker, president—evinced that the board, a tariff association, was losing its hold on conventional premiums, or its influence towards the establishment of such, and a resolution was adopted at such meeting proposing a convention of joint-stock companies representing "sufficient amount of capital" to secure "an adequate tariff of rates." Such proposition was not acted upon—the substantial reason of such inaction being that the average premium of the aggregate joint-stock companies in 1877 was about 85 cents per \$100 insured, with approximately 45 cents for fire loss, and the general interest could not be regulated by the exigencies of particular companies. Two pamphlets on the subject of the fire insurance premium were issued in Philadelphia—one in 1876, the other in 1878. The former divided such premium into net and loading—after the manner of the life premium; the net representing the fire cost, and the loading the provision for expenses. Its distinctive principle was, that as fire cost increased the loading should decrease in some *ratio*; *i. e.*, a series of fire costs increasing in the geometric ratio of 2 should have the *percentage* of gross premiums for expenses *successively* reduced about 9 per cent. So, taking the minimum and the maximum fire hazard, represented by two general designations of risk, with three intermediates, *all at their highest insured costs*, the premium construction was as follows; insurance \$1,000 on each hazard, at annual premium:—

	Fire cost.	Loading.	Percentage of fire cost to gross premium.
Brick dwelling house, . . . . .	\$ 1.25	\$ 1.25	50
Iron foundry, . . . . .	12.20	7.80	61
Cotton-woolen mill, . . . . .	25.60	14.40	64
Planing mill, . . . . .	53.60	26.40	67
Petroleum still, . . . . .	182.50	67.50	73
	<hr/> \$275.15	<hr/> \$117.35	<hr/> 70



Therefore, with fire cost of all loaded 42.7 per cent. to constitute aggregate gross premium, fire would take fully 70 per cent. of the gross premium. Assuming the competency of a particular underwriting to reduce, in *its special case*, these respective fire costs 20 per cent., the official premium became as follows:—

<i>Special Experience.</i>		Percentage of fire cost to gross premium.	
	Fire cost.	Loading.	
Brick dwelling house, . . . . .	\$ 1.00	\$ 1.50	40.0
Iron foundry, . . . . .	9.76	10.24	48.8
Cotton-woolen mill, . . . . .	20.48	19.52	51.2
Planing mill, . . . . .	42.88	37.12	53.6
Petroleum still, . . . . .	146.00	104.00	58.4
	<u>\$220.12</u>	<u>\$172.38</u>	<u>56.1</u>

The loading was the margin within which competition was operative, and such average loading as is represented by the special experience here illustrated could not be maintained in a business having four-fifths of its insurance on special hazards. In fire insurance in general, approximately three-fourths of the loss occurs in one-fourth of the insurance as classed. As the fire cost of an office on its risks advanced above one per cent. the *net* premium tended towards 85 per cent. of the gross premium; as the rate of fire cost descended below 50 cents, or one-half of one per cent., the tendency of the *loading* was to advance towards 80 per cent. of the gross premium. So, a Philadelphia high standard textile mill rated at \$2.50 per annum, might have a fire cost of \$1.95; a Philadelphia brick dwelling house rated at 25 cents, a fire cost rate of 5 cents.

The pamphlet referred to also analyzed the difference in fire cost to the insurer, and consequently the difference in premium, between total loss payment not in excess of the policy sum and such fractional loss payment as "the proportion that the amount hereby insured bears to the value of the entire property at risk." Fire-insurance loss as an exigency, distinguished from normal fire cost, was shown by this example:—

*Example.*—One hundred policies from \$500 to \$5,000 each, average \$2,500—total insurance \$250,000. One per cent. of fire cost equals \$2,500 aggregate net premium. Loss on one policy may be \$4,000—being \$1,500 more than the provision made for loss.

This, in the average fire underwriter's vocabulary, goes by the name of "bad luck."\* With a *limitation* to one hundred policies (\$5,000 maximum), the insurer could not afford to write one less than \$3,000—total insurance \$400,000. The condition exemplified was that of one per cent. ignition with total loss. The chance of a \$3,000 policy subject burning, would be equal to the chance of a \$5,000 policy subject burning; and in the account of

\* Realization of average conditions depends upon breadth of insurance. Hence, three offices, X, Y, Z, each having the liability to loss just exemplified, might have these respective results:—

	Insurance.	Net premiums (fire cost).	Loss.
X, . . . . .	\$250,000	\$2,500	\$4,000
Y, . . . . .	250,000	2,500	2,000
Z, . . . . .	250,000	2,500	1,500
	<u>\$750,000</u>	<u>\$7,500</u>	<u>\$7,500</u>

So, with fire cost not realized by any one company, it would have been realized had one of the companies written all the risks.



probabilities one balanced the other. As the risks increased in number, greater diversity in amount written was permissible, but the maximum policy could not, with safety, be more than double the mean policy sum, nor the minimum policy be less than half the mean policy sum. In practice the average policy sum was a small amount; it was kept so by the number of small risks.

The second pamphlet was an arithmetical illustration of the physical, personal and moral elements of insurance fire-cost. In fire occurrence the greater number of losses are partial, so the peril of a part is greater than the peril of the whole; but the rate of burning or spread of fire was somewhat proportionate to the rate of fire outbreak. So, in a *class* of insured risks, given annual rate of ignition (A) and mean combustion of the insured property fire assailed (B), the rate of insurance fire-cost per annum (C) would be  $A \times B$ . Hence—

	A	B	C
Steam saw mill, . . . . .	1 in 25	$\frac{64}{100}$	\$.256
	or		
	$\frac{1}{25} \times \frac{64}{100} = .0256$		

The special object of this pamphlet being an exposition of moral hazard theories by numerical tests, the above fire cost was treated as made up of \$.92 of physical and personal hazard, and 64 cents of fraudulent incendiarism by the insured—that is, 25 per cent. of moral hazard loss in the case of saw mills; and even this high ratio (conceding as a proposition for argument one saw mill in a hundred fraudulently fired in a year) was given as part of a protest against charges assailing the loss claimant.

A test case before the United States District Court (Schollenberger & Son *vs.* the American Fire Insurance Company of Newark, N. J.), burning of a hide and leather factory, involved mainly a question of valuation of burned stock, though there was a collateral point as to whether a bark mill had been specified as part of the risk actually covered. Insurance on buildings, fixtures, machinery and stock aggregated \$126,959.47, in forty-five companies. Buildings, fixtures and machinery destroyed had been valued by the owners at \$21,139.61. stock at \$85,008.00. As to the former amount, there was no contest; the latter amount had been referred to arbitrators. Counsel for plaintiffs stated to the court that an idea of the extent of the destruction might be attained when it could be shown that four hundred cart loads of burnt leather had been removed from the ruins. The fire occurred September 29, 1877. The firm's account of stock, July 1, 1877, summed up 105,000 skins and hides on hand, valued at \$119,277.36. To show no essential diminution of stock, a witness for the plaintiffs testified that he had supplied the firm with eggs for dressing leather, and that during the six months immediately preceding the fire he had delivered at the factory 11,780 dozen eggs. A witness for the defence—an employé in the building as a finisher of white leather—testified that he had gone through the rooms several times, had seen the skins, and described them as being

about 6,000 in all. This person was in the employ of William Schollenberger after the fire from October to February, and at the same time was receiving a salary from the Pinkerton detective agency of \$15 per week.

In his charge to the jury, Judge Cadwalader said, in respect to all the "suspicion" which was at the basis of resistance to payment:—

Insurance is capital in effect. It is, at all events, the equivalent or substitute for capital, and it is a dangerous and a delicate thing to trifle with a man's right to his insurance, to criticise the way in which he keeps his books, or any other trifles like that, on a question of insurance. Insurance is capital. It is that without which men could not honestly deal upon credit in many cases when they can honestly do so with insurance. It is part of the estimated security of commercial wealth, and while, on the one hand, fraud or trick or artifice on the part of the insured should be reached with fair and industrious scrutiny and visited with stern condemnation, yet, on the other hand, surmises and guesses and intimations of suspicion, or of that which you won't call by its right name, is a very dangerous process of reasoning in a case of insurance.

The jury rendered a verdict against the defendant company for \$2,558.33—policy \$2,500. With this decision as justification of full payment of claim, the contesting companies, representing over \$60,000 of the insurance on the stock, agreed to satisfy, in early named periods, the demands upon the policies, with interest and costs of suit added.

In 1878 the final dividend of the assigned estate of the Enterprise Fire Insurance Company was paid—10.6 per cent., making the total payment to creditors 75.6 per cent. of their claims. A second dividend (5 per cent.) was paid to the creditors of the Penn Fire. Both the Fame and the Philadelphia withdrew from business this year; the former withdrawal in part an effect of the Chicago fire. October 12, the risks of the Fame were reinsured in the Liverpool and London and Globe. Of these, the unexpired and uncanceled at the close of the year were, in amount: temporary, \$2,008,507; perpetual, \$1,034,025. Total assets of the Fame, December 31, were \$120,547.41, including \$3,261.00 premiums in course of collection, and \$5,774.16 of loans on company's stock; against such assets were \$150,000 paid-up capital and \$8,414.25 of other liabilities, including \$2,000 of borrowed money. So, after its career of twenty-two years, and conducted with integrity, if not with success, ended the Fame. Its total premium receipts in this period were about \$860,000, losses paid about \$610,000—not sufficient margin between loss and total premium to meet the ratio of expense attending a small business. The temporary risks of the Philadelphia were also reinsured in the Liverpool and London and Globe, perpetual policies being cancelled. Amount of reinsured temporary risks in force, December 31, \$2,075,653. Liabilities of the Philadelphia were now small, and the cash stock-capital appeared to be substantially unimpaired.

Another office from continental Europe, the Hamburg-Magdeburg Fire, was admitted October 15.



## CHAPTER XII.

*Withdrawals of Other-State Companies—The Fire Writings, Losses and Fires of 1878—Brokers—The Germantown Deposit, Trust and Insurance Company winds up—The Night Fires in Buildings insured by the Contributionship—The Fire of April 6, 1879, and the Insurances—The Semi-Centenary of the Franklin—Address of President Alfred G. Baker—The Franklin's Losses under Perpetual Policies and Temporary Policies—Retirement of the Manayunk—The Loss Ratio of the Contributionship—The Broker as Agent of the Insured—More Companies from Europe—The Royal Canadian withdraws—The Operations of the Fire Department at a Paper Card Manufactory and Paper Warehouse Fire, December 1, 1879—The Physics and Chemistry of Water Extinguishment—New Municipal Proposition to tax Insurance for Benefit of Fire Department—The Question of Underwriters as Fire Preventers and Fire Extinguishers—Breaches of Trust—How it came that a Mortgage was executed—Some Checks of the National Fire Insurance Company—Adjustment of Compound and Specific Insurance by W. S. Davis—Celluloid—The Policy as a Fire Guard in the Growth of the Fire Hazard—Sale of Property and Consent of Company not endorsed on Policy—Old Time Fire and New Time Fire Extinguishing Methods—"Warehouse" as part of "Foundry"—Death of William S. Davis—Valuation of Goods lost by Fire—Incidental Absence not vacating Dwelling House—Suspicious Losses and Technical Litigation—Fire-Loss Assessmentism and Mill-Mutual Insurance—Mechanical Fixtures and Structural Devices for Fire Loss Reduction in Factories—The Philadelphia Manufacturers' Mutual Fire Insurance Company—The Distribution of the Assets of the Penn Fire—The Philadelphia Manufacturing Industries, 1880—Specific Features of the Technological Fire Hazard of Leading Industries—A Seven-Year Exhibit of Textile-Mill Fire Losses—The Lion Fire, of London, and the Scottish Union and National enter, and the Scottish Commercial, of Glasgow, withdraws—Reëntance of the Phoenix, of London, into Pennsylvania—Admissions and Withdrawals or Exclusions of Other-State Companies from June 4, 1874, to December 31, 1880—Death of William G. Crowell—Legal Execution of Policy not proved—No Notice of Foreclosure Sale—The Position of the United Firemen's in 1880—Advance in Rates on Some Risks—Brokers' Commissions—The Adjustment of the Girard Point Fireproof Grain-Elevator Loss—An Estimate of Comparative Fire Jeopardy—Declarative Enactment fixing the Crime of Arson for burning Property held in Possession—Enforcement of Prohibition of Fourth of July Pyrotechnics—Assignee Freeman's Bill in Equity, Liabilities of Stine, Halfmann, Huntzinger and Eby—Organization of Association of Supervising Agents of the Middle Department—Charges against ex-Assistant Secretary and Clerks of the United Firemen's—Resignation of President Alfred G. Baker—Inference of Waiver—Admission of the Standard Fire Office (Limited) of London—The Operations of the Philadelphia Manufacturers' Mutual—Perpetual Insurances written by Non-State Companies and the Farmers', of York, Pa.—Total Perpetual Insurances, 1881—James W. McAllister elected President of the Franklin—Value of Land not a Factor in apportioning Loss upon Insured Premises—The United Firemen's Mutual Insurance Company—Policy not cancelled—The Northern, of Watertown—Electric Lighting as a Cause of Fires—Standard Requirements of the Philadelphia Board for Electric Lighting, 1882—Roofs crossed by Overhead Electric Wires—State Insurance Department Examination of the United Firemen's—Increase of Capital of the Company—President Thomas R. Maris resigns, and Vice-President Thomas H. Montgomery elected President of the American—The London and Provincial enters and the Hamburg-Magdeburg withdraws—Technical Increase of Hazard legally Nothing—The Royal's State Experience on Frame Dwellings and Stores*



—*The Fire Insurance Secretaries' Association of Philadelphia—The Fourth Asset Dividend of the Fame—A Fourth of July with One Fire—A Sodium Ignitive—Fires from Electric Wires and Droppings from Carbon Points—The Sun Fire Office of London—Erection of Insurance-Office Edifices—Fire Losses on Buildings and Contents, 1882—The Losses of the Last Decade of the Two Centuries—Divisions of the Property Loss and the Insurance Loss on a Burned Sugar Refinery—Patrol Inspection of Electric Lighting Apparatus—Licensed Brokers—The Joint Stock Fire Insurance Business (Pennsylvania Risks), 1882—Total Business (Temporary and Perpetual Risks), 1882, of the Respective Philadelphia Fire Insurance Companies—Pennsylvania Business of Other-State and Foreign Companies, 1882—The Insurable Values of Philadelphia as burning—Fire Loss Indemnification and Fire Loss Reduction. (1878–1882.)*

SEVENTEEN other-State fire insurance companies withdrew in 1878, the admissions being but two other-State companies and the one German company. A falling-off in fire risks written marked this year, as the previous one; in part the effect of augmenting term-risks. Such decrease was, however, limited to State and other-State stock companies. The Pennsylvania writings in 1878 compared as follows with 1877—the risks written in any one year by the mutual companies being but a small part of their risks in force:—

	Fire risks written.		Premiums received.		Losses paid.	
	1877.	1878.	1877.	1878.	1877.	1878.
State stock-companies, . . .	\$191,287,574	\$166,164,340	\$2,068,328	\$1,647,138	\$ 965,809	\$ 754,468
Other-State companies, . . .	193,273,041	171,221,208	2,077,522	1,758,052	1,267,717	1,340,391
Foreign companies, . . . .	80,660,909	87,653,101	922,759	944,011	512,714	588,692
State mutual-companies, . .	115,392,283	118,656,081	1,811,730	1,602,000	1,276,596	1,209,841

The Philadelphia fire department reported 739 fires in 1878, attended with aggregate loss of \$1,534,518, of which aggregate \$1,106,814 were caused by nine fires. Insurance-patrol report was 714 fires and alarms, involving loss of \$1,332,989 upon properties insured to the amount of \$7,707,180.

Philadelphia fire losses per annum were approximately 30 per cent. of the entire annual fire loss of the State. At the close of 1878 there were 143 licensed brokers located in the city, chiefly procurers of fire insurance risks; the custom having largely augmented and the usage established for the owners of property to leave their fire insurance negotiations in the hands of such intermediates, with commission to broker included in the premium charge.

The small business of the Germantown Deposit, Trust and Insurance Company not increasing, this company was the next Philadelphia fire office to discontinue. At the end of its five years' trial it had \$746,690 of temporary risks and \$60,800 of perpetual risks in force.

With business growth and residence decline of the older sections of the city, buildings unprotected by habitancy at night multiplied. The Philadelphia Contributionship continued its record of the fire jeopardy involved in such change, and by March 25, 1879, an experience of thirty-six years was recorded, with the omission of the year of the great fire of 1850. In the buildings to which policies of the Contributionship applied, fire broke out in these thirty-six

years in 656 inhabited at night and 477 not so inhabited. By annual accretions the risks of the institution had more than doubled in these years, but the proportions of inhabited and not inhabited were not shown, and the significance of the data collected pertained, therefore, merely to the spread of combustion as a sequence of ignition. The data were arranged in nine-year divisions:—

Year ended March 25, (excluding 1851.)	<i>Fires.</i> Buildings inhabited at night.	Mean annual percentage of loss to sums insured.	<i>Fires.</i> Buildings <i>not</i> inhabited at night.	Mean annual percentage of loss to sums insured.
1843-52, . . . . .	91	3.60	80	9.95
1853-61, . . . . .	207	7.04	121	16.83
1862-70, . . . . .	192	7.62	126	8.88
1871-79, . . . . .	166	3.20	149	7.67
	656	21.46	477	43.33
Periodic mean, . . . . .	164	5.37	119¼	10.84

This evidenced Mr. Binney's "constant element," in so far as to show that the rate of insured loss was double in the buildings not inhabited at night as compared with the night-inhabited buildings; but the "other elements" were still wanting to determine whether higher inherent-combustibility rather than non-inhabitation at night was not dominantly the cause of the excess conflagration. The average deposit in the Contributionship on risks written in 1877 and 1878 was 5.16 per cent.; the average deposit on outstanding risks in 1843 was 2.63 per cent.; and though building loss was a decreasing rate of jeopardy in comparison with content loss, this institution was advancing higher up the scale of fire jeopardy, and with such advance the ratio of loss to sum insured on burning buildings was receding, whether inhabited or not inhabited at night, and such receding was taking place in the disastrous fire decade of 1866-75. In respect to such buildings as were insured by the Contributionship, the figures indicate no increase in the rate of ignition and increased efficiency in fire extinguishment.

Early on Sunday morning, April 6, 1879, fire began in a new brick factory-building—70 by 125 feet, two years old—at the north-east corner of Race and Crown streets. Conjecturally, the fire originated from benzine or like vapor. The building was occupied by machine-card works, burring works, shoe factory, a fringe factory, and a maker of enumerators and bell punches. The walls were 18 inches thick, but the whole brick front above the first of the four lofty stories was supported by iron girders resting on six square, hollow cast iron pillars, which soon bent under the heat. At the outbreak of the fire the wind was north-west, velocity but seven miles an hour. The flames spread eastward, through a pile of cassimere boards, to a five-story building at the north-west corner of Race and Fourth streets—paints, bookbindery, button manufactory, etc.; thence the flames ran northward, and, from the northern point reached, westward and then ran south-eastward, flying cinders setting fire to a roof on Cherry street, west of Third, and two on Arch street, east of Third. The area swept contained stores, saloons, partially family occupancies, partially manufacturing occupancies, stables, school building, etc. Thirty-six buildings were attacked by the fire, seventeen totally destroyed. About seventy parties sustained loss, the total of which was \$527,850. Loss at place of origin \$293,000, insurance

loss \$180,000; the loss on building was \$200,000, with \$112,500 of insurance. Total insurance on the ignited properties \$581,000, in seventy-six companies. No insurance in five instances; one (saloon and dwelling) just expired—insurance on contents. Total losses to the companies \$359,060. Sixteen policies (\$55,000 of insurance) in the Fire Association were affected, but the loss under these policies did not exceed \$8,000. Of eight policies in the Spring Garden Fire Insurance Company, covering \$17,500, total loss was sustained on three. Five perpetual policies in the Philadelphia Contributionship resulted as follows:

One policy, insuring \$5,000	Loss, \$5,000 00
" " " 2,500	" 280 00
" " " 2,500	" 2 50
" " " 4,900	" 2,800 00
" " " 300	" 300 00

Insurance of \$66,000 on a large glass and drug warehouse sustained loss of \$2,416.55. Loss on a bookbindery was \$38,000, with \$20,000 of insurance.

June 25, the semi-centenary of the Franklin Fire Insurance Company was duly commemorated. There was, for the occasion, a regret that one life which had been with the company from the beginning had departed but a few months previous to the fiftieth anniversary. Vice-president George Fales (for long years prominent as a dry-goods merchant), a stockholder from 1829, a director from 1857, vice-president from 1867, died January 14, 1879, in the 92d year of his age. Mr. Fales was succeeded as vice-president by second vice-president, James W. McAllister, and as director by Thompson Derr, noted as the leading and most successful fire insurance agent in north-eastern Pennsylvania. On the day that marked the Franklin's completed half-century, the managing staff was organized as follows:—

President: Alfred G. Baker.

Vice-president: James W. McAllister.

Secretary: Ezra T. Cresson.

Assistant Secretary: Samuel W. Kay.

#### DIRECTORS:

Alfred G. Baker,  
Isaac Lea,  
Alfred Fitler,

William S. Grant,  
Thomas S. Ellis,  
Gustavus S. Benson,  
James W. McAllister,

R. Dale Benson,  
Francis P. Steel,  
Thompson Derr.

A. C. Blodget, General Agent.

George F. Reger, Manager, Department of the East and South.

Charles W. Kellogg, Manager, Department of the West.

Mr. Lea, elected October, 1852, was the senior director.

A semi-centennial address was delivered by President Baker. This told the story of the first organization of the company and the first policy issues, gave some data, abounded in reminiscences of the *personnel* of the corporation and in regard to the earliest agencies, and summed up part of the financial outcome of the fifty years, viz.:—

#### *Perpetual Risks.*

Deposits received, . . . . .	\$2,603,481 64
Losses paid, . . . . .	1,055,863 38

(In the fifty years about \$1,050,000 of perpetual premiums had been returned.)



*Temporary Risks.*

	Premiums received.	Losses paid.
Home business, . . . . .	\$ 4,484,177 35	\$2,671,490 15
Agency business, . . . . .	12,850,773 32	7,361,483 70

From the declaring of the first dividend in 1831, \$3,767,016 had been paid for dividends. The number declared, 110 in all, had been at the following rates: (In the period from April, 1871, to January, 1878, dividends were paid in gold, or in the value of gold, at the rates declared.)

Nos.	Dates.	Per cent.	Nos.	Dates.	Per cent.
1, . . . . .	Sept. 1831	3	42-43, . . . . .	1853	12
2, . . . . .	1832	4	44-47, . . . . .	1854-1855	18
3-14, . . . . .	1833-1838	8	48-49, . . . . .	1856	22
15-18, . . . . .	1839-1840	9	50-51, . . . . .	1857	24
19-30, . . . . .	1841-1846	10	52-53, . . . . .	1858	30
31-32, . . . . .	1847	11	54-73, . . . . .	1859-1868	32
33-34, . . . . .	1848	12	74-75, . . . . .	1869	34
35-36, . . . . .	1849	16	76-77, . . . . .	1870	35
37-38, . . . . .	1850	12	78-110, . . . . .	1871-1879	32
39-40, . . . . .	1851	10			—
41, . . . . .	1852	6		Average,	20

Mr. Baker well said, "this shows the wisdom of a moderate capital supplemented by a large surplus."

In the city of Lexington, Ky., an agency of the Franklin had been continued for forty-eight years. James W. Cochran, senior agent and representative there, in the course of some after-dinner remarks said:—

You will all recollect that in those forty-eight years we have gone through a rebellion. Notwithstanding the city of Lexington was for two months in a state of rebellion, under control of some of the Southern Confederacy, the business of the Franklin was continued during that time, so far as the renewals on the books were concerned; not through any instructions given me by Mr. Bancker, but of my own volition. During the whole time there never was a dollar lost.

October 17, the Manayunk Insurance Company retired from business. Its temporary risks, \$1,673,108, were reinsured in the Commercial Union Assurance Company of London, perpetual insurances, \$634,400, being cancelled. From the beginning of its business, June 13, 1873, to the close, it received for gross premiums \$235,670; total paid for losses \$134,544. In 1878 this company limited its writings to Pennsylvania risks, receiving \$22,052.17 of net cash premiums, paying \$32,699.39 for losses, net, and \$14,385.80 for salaries, commissions and taxes.

Aggregate fire loss in 1879 repeated about the amount of 1878. The Contributionship, with a mean of \$13,036,248 of perpetual building-insurance in force, sustained the high perpetual-loss ratio of 7 cents and 4 mills per \$100 insured, and this was less than the loss rate of the preceding year.

In a suit against the Fire Insurance Company of the County of Philadelphia, in Common Pleas, to recover deposit premium paid to the broker (5 per cent. commission), but not accounted for to the company, the defendant company relied upon a clause in the policy making such broker the agent of the insured,

and not of the company; the jury returned a verdict for plaintiff in the sum of \$85.50, Elcock, J., charging the jury that unless the plaintiff had *notice* from the company that the broker was to be *his* agent, he was not bound by such clause.

In the eleven non-State fire underwriting companies admitted in 1879, were two French corporations, *La Confiance* and *La Métropole*, of Paris; Theodore M. Reger, agent of both. The London and Lancashire, of Liverpool, George Wood, agent, was admitted June 26, and by the close of the year wrote \$2,264,513 on Pennsylvania risks. The Norwich Union, of Norwich, Eng., was also licensed; R. Emott Hare, agent. A Montreal office, the Royal Canadian, withdrew in 1879. In 1878 this company wrote \$1,122,382 in the State, received \$15,615 for premiums, and incurred \$15,953 of losses. January 12, 1880, *La Compagnie de Réassurances Générales*, of Paris, was admitted; Theodore M. Reger, agent.

Criticism reflecting upon the fire extinguishment became more condemnatory after a conflagration occurring December 1, 1879, burning a paper-card manufactory, paper warehouse, etc., Nos. 18 and 20 Decatur street. The fire began in a cutter bin, where scraps from cards were stowed. In its progress through the two connected-buildings, the fire reached the fifth story and roof through the flames rushing up an open hatchway. Steam from engine in basement supplying power to all the stories of the two buildings, was turned on before the arrival of the fire engines, but ineffectually, the flames pouring out of the third-story windows as the firemen reached the ground. A printer occupying the second floor of No. 20, charged that the firemen destroyed goods needlessly by applying water in the wrong places; the firemen claimed that they were putting the fire out. The fire, however, burned itself out in the two buildings in three hours from commencement. Flames caught the northward roofs of adjoining properties, but at these external points were soon suppressed. Roof of a clothing house on the east side of Sixth street, extending to Market street, was well defended by the fire corps of the establishment with water from its own stand-pipes. An insurance journal said:—

There was the customary playing at and towards the fire from the street, combined with some more direct water application. There was also much bursting of hose, and especially of old hose, long lines of which were brought into requisition, and it is probable that the newer hose cannot withstand the water pressure quite as well as sheet-iron tubing. In view, however, of all the elements of the case, it is not impossible that one-tenth of the water used was of direct service in extinguishing the fire; *i. e.*, in so hindering the combustion in the burning buildings that the flame volume, at any given moment, was greatly reduced from what it would otherwise have been.

The large streams directed at the fire vertically from the powerful steamers, put some spray upon the exterior flame;—those at about forty-five degrees elevation were more effective, but the best seemed to be those applied from the roofs of the adjacent buildings.

Drowning out by water still remained the aim of the fire department, and this was followed up from dampening to deluge, according to accessibility. In so far as the water was converted into steam within the burning structure, the cooling effect was attained by the water absorbing about 1,100 degrees of heat before vaporizing, and water and steam, both, suffocate fire by excluding

oxygen from the substance fire attacked; but any arrangement, or solid, powder, liquid, vapor or gas, which excludes oxygen, also puts the fire out, and whatever admits oxygen (to supply what the flame has exhausted), whether oxygen of the atmosphere or otherwise, spreads it. A good, simple lesson in fire extinguishment is afforded by closing the damper of a stove, or by throwing first water upon blazing oil, then earth. Many fires in confined spaces, smothering in their own smoke, have been made great conflagrations by breaking open doors and windows to let in water extinguishment.

With propositions for city councils to reconstruct the fire department, came the ever-recurring suggestion to tax the fire insurance companies for the support of such department. It was not contended that such companies were created fire extinguishers by their charters, but somehow their business was benefited by the operations of firemen and apparatus paid for by the public. As the fire underwriters lost by fires, it was *their* interest to prevent or extinguish them, and the public having paid premiums for protection against fires, should not pay again for such protection. Against a prior idea vaguely entertained, that fires are the fire insurer's stock in trade, it began to gleam forth that the suppression and end of all fires would be a great enrichment of the fire insurers. A daily paper gave this explication of the fire underwriters' functions and omissions:—

Prevention should be a part of their business, and in fact is a part of their practice, for the examination and surveys they make, and the conditions they insist upon as to the inflammable substances and as to the dangerous places about certain buildings and parts of buildings, are ordered entirely in view of the *prevention* of fires. It is only a question of degree as to how far they shall go with their precautions. It *is* their business to prevent, and it should be a part of their business to aid in the extinguishment of fires also.

To this estimate of a loss indemnifier as a loss preventer and fire extinguisher, an insurance journal gave, in part, this response:—

1. The insurer can only know the risk by the "examination and surveys" he makes, and knowing the risk, he fixes his premium accordingly.
2. The object of the underwriter is to insure against a danger which *exists*, and not against one which is *prevented*.
3. If the danger is averted or prevented, there is no occasion for the underwriter at all.
4. The *ascertainment* of a liability to fire is not in itself the *prevention* of fire, excepting indirectly by exposing the peril and its nature.
5. Should the underwriter remove the possibility of fire, for him any premium would be an impossibility, and where, then, is payment for his services to come from?

The fire underwriter understood fires from his standpoint. He was getting at the sources and occasions of conflagrations in the way of his own work, and "when the secret things of fire destruction shall all be known, the fire story will be but a record of incipient ignitions." So, working towards such end, there were among the fire underwriters men at least sufficiently intelligent to know that people would not pay the same premiums for ten-dollar scorches as for five-thousand-dollar fires—they were not paying the same rates for dwelling houses as for factories; and not charging fees at all for fire prevention and inspection, the underwriters objected to assessing taxes for such objects under the pretence of collecting fire insurance premium. At an adjourned meeting held January 23, 1880, officers and agents, conferring on the subject



of the proper attitude towards the fire department, put forth the subsequent statement, per report of committee, in respect to the part they, as premium collectors, had to perform in relation to fire jeopardy, comprehending their relation to the fire extinguishment whether it should be efficient or otherwise. To the citizen it was no monetary difference whether he paid for a fire department as premium or as tax. In the committee's report the underwriters fell into the common talk about the means rather than the methods of the fire extinguishment—they were not firemen, scientific or empirical—but they knew their own vocation.

The committee of seven appointed to consider and report upon the advisability of action being taken by your body in relation to certain alleged shortcomings of the fire department, beg leave to report that they are satisfied that the city has not, at this time, the protection against fire that its great wealth and importance demands.

*First:* Because the distribution of water is insufficient for fire purposes.

*Secondly:* Because its telegraph alarm cannot be relied on.

*Thirdly:* Because much of the apparatus of the fire department, especially its hose, is insufficient and inadequate to cope with serious conflagrations.

*Fourthly:* Because politics have seriously interfered with the *morale* of the department and its power of prompt and effective action.

These defects, which have already excited attention and comment in the handling of fires of ordinary magnitude, may be prolific of extraordinary disasters in permitting such fires to get beyond control and become ruinous conflagrations. But, bearing all these things fully in mind, the committee fail to see how the underwriters of this city, as such, have any duty to perform in the direction of improving the protection against fire. As citizens, they may well deplore this condition of affairs, and join with others in all well-directed efforts to reform; but, as underwriters, their business is to pay for fires, not to prevent them, and to pay only to those persons who have paid them a proper sum for the indemnity they obtain.

Underwriters have always gladly done what they could in preventing fires, by giving to the community all the information which experience has afforded them in regard to the dangers of certain styles of construction, the use of certain substances, or of certain machines, etc., etc., but in only one marked instance have they put forth money in this direction, viz.: in the matter of fire patrols. It may be remarked concerning them, that they were organized more to prevent the useless destruction of property by smoke and water than to prevent or extinguish fires, and cannot be of much avail, unless in connection with a good fire department; also, that it is doubtful if they have ever been of much pecuniary value to underwriters, as, wherever they are instituted, rates of insurance decrease, so that the falling off of premiums, combined with expenses in keeping of the institution, probably equal the amount of loss saved to underwriters. For it is to be borne in mind that a large amount of property thus saved is insufficiently insured, and, when saved, is saved to the community, instead of to the underwriters.

Believing, then, that the doctrine involved in the support of fire patrols has gone quite far enough, and that the true function of underwriters is not to protect property from destruction by fire—which clearly is a municipal duty—but to indemnify, at adequate premiums, people from loss by fire, your committee respectfully report that, in their opinion, when the underwriters of Philadelphia have advanced the rates of insurance in this city to a point commensurate with the dangers which the above-stated defects in the protection afforded by the municipal authorities disclose, they will have done their whole duty to their stockholders, and they therefore report in favor of no further action being had in relation to the subject referred to them.

Breaches of trust had been revealed in very few instances among the officers and clerks in local companies throughout the years of the insurance history of the city. At the beginning of 1880 the secretary of one of the recent minor fire insurance companies disappeared, and a defalcation was discovered. Eight years earlier a clerk in a marine-fire office had been detected in an over issue of certificates of profit. The signatures of the officers were procured by the fraudulent being mixed with the genuine papers placed for signing.

In a suit in Common Pleas, No. 3, on a mortgage given by Enoch Swope to Philip E. Coleman, and by Coleman assigned to the Jefferson Fire Insurance Company, the plaintiff, the Jefferson Fire Insurance Company, offered in evidence the mortgage, proved its execution and assignment, and rested. Mr. Swope, the defendant, offered to prove "that the defendant's son, Albert, was in the employ of Mr. Philip E. Coleman, who was secretary of the company plaintiff; that in such employment he assisted him as such secretary; that on or about October 1, 1876, Coleman sent for the witness and said to him: 'Your son has been stealing from the company, and I want you to pay it back.'" This was overruled, and the court directed the jury to find for plaintiff. Verdict and judgment being in accordance, defendant took a writ alleging that the court erred in rejecting his evidence, and in directing a verdict for plaintiff.

Sterrett, J.: . . . Coleman exhibited [to Swope] a paper containing a statement of the sums alleged to have been embezzled, and said: "This is now \$1,300 that Albert has stolen, and I want to see if you are going to fix it up." To which the father replied: "I am unable; I have no money and cannot raise any." Whereupon Coleman said: "Mortgage your property, and I'll have it taken by the company; and if you do not, we will have Albert arrested for his stealing and put him in the penitentiary."

[As to compounding a felony.] There was no offer to prove that the felony had actually been committed, or that there was an agreement not to prosecute if the security demanded was given. The guilt of the party accused and an agreement not to prosecute are essential ingredients in the compounding of a felony. Though the proof of guilt need not be of that conclusive character that would be necessary to convict. . . . If all the allegations of fact embodied in the offers had been proved, they were not sufficient to justify the jury in finding that Albert was guilty of the crime laid to his charge. . . . At best, it [the guilt] would be merely a matter of conjecture. If this were permitted, mortgages and other real estate security would rest on a very frail foundation. . . . In the present case the testimony was insufficient to sustain the defence that was relied on, and there was therefore no error in overruling the offers. Judgment affirmed. (12 Norris, 251.)

Holders of checks of the National Fire Insurance Company appeared as exceptants to auditor's report, awarding a certain fund of \$4,939.38 to the general creditors. The checks were drawn upon the Bank of Northumberland, and had been sent to the bank by the holders for collection. The following is an abstract of the opinion delivered in Common Pleas by Finletter, J.:—

It is an established fact that whilst the bank held the checks it had funds of the company sufficient to pay them. . . . On the 10th of March, 1875, there was to the credit of the company in the bank the sum of \$10,235, all of which, except about \$1,500, had been drawn upon by the company in checks given to various creditors, the exceptants included. The master finds as a fact that H. L. Cake, president of the company, and Joseph W. Cake, president of the bank, conspired to obtain this balance. For this purpose they induced the treasurer of the company to give H. L. Cake a check upon the bank without date and without amount. This check was subsequently antedated and filled in for the whole sum due by the bank to the company, viz., \$10,235, and paid by Joseph W. Cake to H. L. Cake. This whole transaction the master finds to have been a conspiracy and fraud. Therefore, no rights which were then attached to the funds could be affected, and no antagonistic rights could arise from the fraud. . . . As might be expected, shortly after the money had been secured, both institutions were declared insolvent and went into liquidation. The assignee of the company brought suit against the bank for the amount received by H. L. Cake, and this suit was settled by H. L. Cake paying the assignee the sum of \$4,939.38. Whilst the controversy is apparently between the general and the special creditors, it must be evident that the general creditors should only be regarded as succeeding to the rights of the company. The real contest is between the company and the special creditors, and must be determined upon their relative rights.



. . . . . The funds, therefore, in the bank should be considered as appropriated to the payment of the checks in the order in which they were received. If, subsequently, the company by any means obtained these funds, it must be held to have collected them for the use of the holders of the checks. . . . . We have therefore come to the conclusion that the master erred in not distributing the fund among the special creditors. But the fund is not sufficient to pay all the special creditors. The checks should be paid in the order in which they were received, unless there was some special reason indicating the time or manner of payment, or the fund from which they should be paid. . . . . (14 Phila., 149.)

Despite of objection to the adjustment practice of apportioning associated compound and specific insurance in accordance with loss, settlements continued to be in conformity to the idea of "waiting for loss to occur"; *i. e.*, not the subject as written, but the loss as it should happen, determines the application of the policy, contributively. The principle of this was embodied in the rule of J. Griswold, viz.:—

Compound policies become specific and cover the several items under their protection in the exact proportions of the respective losses.\*

Doubtful contribution blended with doubt as to certain subjects or non-subjects of insurance appeared in making up the loss account arising from a fire at the Oxford-street church, December 3, 1879, and the questions to be settled were referred to the decision of Vice-president W. S. Davis, of the Insurance Company of North America. The insurances were as follows:—

Fire Association, . . . . .	\$10,000	Building.
London and Lancashire, . . . . .	10,000	"
Royal, . . . . .	10,000	"
Citizens', . . . . .	2,000	"On fresco painting on the wall."

Policies of the first two companies, by special provisions, excepted fresco painting from the building insurance; the Royal did not except. The Citizens' also insured "furniture, including gas fixtures, carpet, cushions and pulpit furniture." The referee was asked, in substance, to answer:—

1. Are the cloth coverings on the front and back of the pews (*a*), the silver-plated numbers on the pews (*b*), the cloth coverings on the vestibule doors (*c*), or the reflectors and ventilators in the ceiling (*d*) part of the "building" or the "furniture" insured?
2. Shall the policy of the Royal contribute with the Citizens' to pay fresco loss,—and if so, to what extent?

Giving the reasons therefor, Referee Davis answered: (*a*) "Furniture," (*b*) "building," (*c*) "building," (*d*) "building."

Loss on building was \$14,473, including \$750 loss on fresco, and 14,473 — 750 = 13,723. As answer to the second question, the referee apportioned the Royal's contributory insurance as follows:—

On building, . . . . .	14,473	:	13,723	:	:	10,000	:	9,482
On fresco, . . . . .	14,473	:	750	:	:	10,000	:	518

Thereby, however, \$29,482 did not co-insure on the loss of \$13,723, but \$2,518 did co-insure on the loss of \$750; the method adopted being that of "paying the non-concurrent item first, and applying the *balance* upon the concurrent item." The Royal, therefore, being charged \$154.27 on fresco loss ( $750 \times \frac{518}{2518}$ ) contributed \$9,845.73 to the building insurance otherwise; the

\* Fire Underwriters' Text Book, 706



aggregate co-insurance on which now amounted to \$29,845.73, and the net cost to the Royal by the non-exclusion of the fresco risk, was, in this conjunction, \$107.73, paying \$4,682.06 on the loss of \$14,473, and the Fire Association and the London and Lancashire paying each \$4,597.60 on the loss of \$13,723, or \$23.27 each more than they would have had to pay had the Royal's policy been fully concurrent with theirs.

Among the new inflammabilities which had come into use was celluloid. Its base was cellular tissue of plants, and as a composition it combined, under a high degree of pressure and heat, guncotton or tissue paper and camphor. Out of it were made umbrella handles, shirt collars and cuffs, stereotype plates, billiard balls, buttons, combs, piano keys, jewelry, etc. It thus became a wide-spread fire factor. It inflamed at 311° F., and instances of its inflaming by friction were reported. Brought near to a lamp light or other illuminant, it took fire without flame contact, burning with almost explosive rapidity. In a new fire policy issued by the Union Insurance Company, celluloid with excelsior (curled artificial fibre of wood) and other specially hazardous articles required permission written in the policy to make the company liable, if any were "kept on sale, stored, made, or used in making other articles, in or on the premises herein described." The fire policy was growing as an elaborate fire-guard. Philadelphia fire underwriters were manifesting some uneasiness about the use of such marking ink in mercantile houses as was mixed with turpentine or benzine. It was accepted as an increasing necessity to augment measures to avoid fires. In the development of combustion, finer grinding was producing in the city explosions of carbonaceous dust, and how one fire might make another, and even a succession of fires, was shown by fire-damaged cotton taken from one burning factory to another factory in a partly charred state, and with fire smouldering within, causing the second factory to ignite; and then the second fire might so make a third. Larger use of benzine in manufacturing processes was showing itself, in one instance, in the use of benzine for extraction of the oil from crushed linseed (as it had been used for extraction of oil from cotton waste, etc.), the seed being placed in a cylinder, after which the benzine was introduced, and then steam. There was some reduction of the jeopardy in the collection of the vapor for re-use.

June 14, 1880, the Supreme Court reversed a judgment of the Court of Common Pleas of Lycoming county against the Girard Fire and Marine Insurance Company. A policy issued June 1, 1875, for one year, insured the firm of Hebard, Forsman & Smith, upon a stock of lumber, lath, shingles and pickets, at Williamsport, to the amount of \$2,500. April 23, following, Forsman sold his interest to the other members of the firm, and the policy was assigned to the new firm of Hebard & Smith; and so endorsed the policy was handed to Thompson & Clinger, who had been agents of the company until March 21, and it was sent April 29 by the latter firm—no longer agents of the company—to the company for approval. On receipt of such notification, and recognizing Thompson & Clinger as agents of Hebard & Smith, the company responded as follows:—

PHILADELPHIA, May 1, 1876.

Messrs. Thompson & Clinger, Williamsport, Pa.

GENTS:—Yours of the 29th ult. is at hand, enclosing policy No. 84,271, H., F. & Smith, for approval of transfer. We prefer to cancel the policy, and will return the premium *pro rata*. Please signify your assent to this, and I will send you a check for the amount.

Truly yours,

JAMES B. ALVORD, Secretary.

A reply to such letter was evidently non-assenting.

May 6, fire occurred. May 8, the secretary sent by mail, to Thompson & Clinger, a check for \$4.17—return premium, which was sent back; and notice of the fire was sent to the company May 9.

The policy then used contained the option of the company to cancel on giving the insured notice and refunding *pro rata* premium for unexpired time, and also the following conditions:—

1. If the property be sold or transferred, or any change takes place in title or possession, whether by legal process or judicial decree, or voluntary transfer or conveyance, or if this policy shall be assigned before a loss without the consent of the company endorsed hereon, . . . . . then, and in every such case, this policy shall be void.

12. No assignment of this policy shall be valid unless notice thereof be immediately given the company, and said assignment be approved by the endorsement and approval of the president or secretary prior to any loss. The company reserves the right to approve the transfer or not.

And it is hereby mutually understood and agreed by and between this company and the assured, that this policy is made and accepted in reference to the foregoing terms and conditions, . . . . . which are declared to be a part of this contract, and are to be used and resorted to in order to determine the rights and obligations of the parties hereto; . . . . . and that no condition, stipulation, covenant or clause hereinbefore contained shall be altered, annulled or waived, nor any clause added to these presents, except by writing endorsed hereon or annexed hereto by the president or secretary, with their signatures affixed thereto.

Verdict in Common Pleas awarded plaintiffs \$2,949.13.

Green, J.: . . . . . The court below held that upon receiving notice of the assignment, the company had the right to disapprove of it and declare the policy forfeited, and "if they did this, it was their duty to notify the insured of their election in this respect." It further held, in answer to the plaintiffs' fourth point, that if the company failed to give notice to the insured of their disapproval of the transfer, and of cancelling the policy, these omissions were evidence of waiver of the conditions of the policy, and left the question of waiver on these grounds to the jury. In all this there was error. The express terms of the contract avoided the policy if either the property insured was transferred, or the policy assigned without the consent of the company endorsed upon the policy. It is not enough that notice of the transfer in the one case, or the assignment in the other, be given to the company. The contract requires that, in addition to the notice, the consent of the company must be obtained, and must be endorsed on the policy. The duty of procuring these things to be done rests with the assured. If he fails in his efforts, or neglects to comply with the whole of the requirements, the contract is at an end by force of its own terms. The court below held that a right of forfeiture by a positive act accrued to the company after receiving notice, and that without such an act, and notice of it to the insured, the avoidance of the contract did not transpire. But such is not the agreement of the parties. In the present case there was no notice of the transfer of Forsman's interest in the firm, other than as it was to be implied from the notice of the assignment of the policy. But that is not a sufficient compliance with the provisions of Condition 1. It is argued that the property referred to in the pertinent clause of Condition 1 is real estate. A reading of the whole text of this condition, as well as of this particular part of it, demonstrates beyond all question, that in the use of the word property it was intended to include any and all kinds of property, whether real or personal, which constituted the subject of insurance. It is a printed condition, and we find it in a policy insuring personal estate. It would be equally applicable to a policy on buildings. The language is carefully framed so as to refer to property of either class. The portion of the clause in question is as follows: "Or if the property be sold or transferred, or any change takes place in title or possession, whether by legal process or judicial decree, or voluntary



transfer or conveyance, . . . . . or if the interest of the assured in the property, whether as owner, trustee, consignee, factor, agent, mortgagee, lessee, or otherwise, be not truly stated," etc. The mere exhibition of the words is sufficient to show that the word property throughout is intended to refer to the property insured, whether it be real or personal. We hold that no proper notice of the transfer of Forsman's interest in the property insured by the policy in suit was given to the company, and that the consent of the company was not obtained or endorsed on the policy, either to the transfer of Forsman's interest or to the assignment of the policy, and hence the contract was at an end, and there was no right of recovery. No act of forfeiture by the company was necessary to accomplish this result, nor was the omission of such an act any evidence of waiver of its rights. A waiver, to be effective, must be intentional, and it would be impossible to predicate such a purpose of any act or omission of the defendant in this case. The positive act done was a refusal to consent, and an immediate notice of such refusal to the persons from whom the application for consent was received. To construe such an act, and the omission to do something further, which the contract did not require, into a voluntary waiver of the contract rights of the company, would be a perversion of justice. . . . . (14 Norris, 45.)

June 24, a general conflagration of an earlier-time character was shown in relation to existing means of fire extinguishment. The fire spread over the block formed by Christian and Marriott and Third and Fourth streets. A stable, lumber yard and a sash mill were within this block. Stable first took fire, then the mill; next, the lumber yard was in flames. The whole fire department was summoned, and thereby the water resources of the locality were unequal to the demand upon them. In about one hour and a half from the commencement, adjoining dwellings were in flames, and fifty-two of these had caught fire by another hour, but only two of the dwellings were totally destroyed, and the total value loss was only about \$90,000. One fireman was killed and two other men injured.

Application of certain written terms in policy was a matter submitted to A. C. Blodget, as referee, by W. H. Whitall and D. S. Creswell, loss arbitrators, viz.: "*On Iron and Wooden Range and Heater 'Patterns' owned by the assured, and contained in Brick Iron Foundry, occupied by Stuart & Peterson, situate on the north side of Willow street, west of Thirteenth street, City of Philadelphia.*" The patterns were stored and burned in a building known as "the warehouse." Question was whether this building was a constituent part of the foundry, under the insurance, irrespective of the strictly technological definition of the term foundry as denoting the place where melting of metal and moulding of the melted metal are carried on. The warehouse was used only for the storage of material pertaining to the works of the proprietors as foundrymen. No consideration was given to the point as to whether the phrase "contained in" designated *what* patterns were insured rather than *located* them, and the referee, citing the titles of numerous adjudications bearing upon the subject directly or collaterally, held that the burned patterns were in what was "as much an integral part of the foundry as the moulding room or furnace." This decision was in accordance with the definition of foundry as including the building and apparatus used in the casting of metals in various forms.

Ill health, presaging death in the near years, compelled the resignation of William S. Davis from the vice-presidency of the Insurance Company of North America. This withdrawal was recognized as the loss of a qualified and competent fire underwriter from the city's insurance service. Mr. Davis was a graduate of Harvard University, and after studying law in Worcester, Mass.,



and the Harvard Law School, was a practising lawyer for a few years. He relinquished law practice to become secretary of the Bay State Fire Insurance Company of Boston, and was president of that company when it was destroyed by the great Boston fire of November 9, 1872. He was a skilled expert in the legal fire insurance risk, and, consequently, the legal fire insurance loss.

Valuation of goods lost by fire continued to be a caprice or practice according to circumstances. A stock of such articles as are usually sold in country stores, but principally dry goods, was burned. There was a policy thereon of \$2,500 in the Girard. Claim was resisted, and in Court of Common Pleas, No. 1, of Allegheny county, the plaintiff, Braden, estimated the value of the stock at the outbreak of the fire to have been \$14,500—loss \$11,650.23, which amount defendant contended was greatly in excess of the market value.

The plaintiff alleged that his bills of purchase had been destroyed by the fire, and he could not, therefore, give an itemized statement of what was on hand at the time. His mode of arriving at the value on the witness stand and in his proofs of loss was to take the value of his stock according to an inventory, which he said he had made on March 7, 1878, adding thereto what he estimated he had afterwards bought down to the time of the fire, and deducting therefrom what he claimed to have sold in the meantime; such balance being the value of the stock. The estimate of purchases made between the date of the inventory and the date of the fire, he said he arrived at by referring to some unpaid bills in his possession and to his bank account. Checks which had been drawn upon his bank account were not produced on the trial, being also, as stated, destroyed by the fire.

At the trial the plaintiff produced, as evidence of the value of his stock, a wholesale dealer in notions, with an experience of sixteen years, who had sold goods to Braden; another witness kept a similar country store; a third was a travelling salesman for a large wholesale firm; a fourth was a prominent auctioneer whose business had principally consisted in the sales of goods of stores. These had all seen the stock shortly before the fire. They were permitted, under objection, to give their opinion, and they all estimated the value at about \$12,000. The verdict was for the whole of plaintiff's claim, and the company took a writ, alleging that the court erred in admitting the testimony of these witnesses. The judgment was affirmed, the Supreme Court declaring that: "We never reverse either for the admission or rejection of such evidence, unless in a clear and strong case." (15 Norris, 81.)

A dwelling house in Forest county was insured in the Franklin. It was stipulated that if the premises should be "vacated without the consent of the company endorsed hereon, . . . this policy shall cease and determine." The insured, the only occupant of the house, was absent, attending a funeral in Clearfield county, from Wednesday, October 23, 1878, to the following Monday, and the house burned on the day before his return. The company claimed that this was a breach of the non-vacating clause, as the leaving of the building without the protection of its sole occupant made it substantially an unoccupied building. The verdict was for the plaintiff, and the Supreme Court affirmed the judgment. "The premises were not *vacated* by *such* absence." (14 Norris, 492.)

Fire insurance litigation had not increased in proportion with the increase of risks and fires, but a considerable portion of the occurring litigation was

characterized by resort to merely technical pleas in the absence of proof to sustain the grounds which were, in such cases, the real motives for resisting payment.

Pennsylvania assessment fire insurance was rather declining than augmenting, even in the agricultural sections of the State, still fire-loss assessmentism\* was beginning to emerge somewhat from the disrepute into which it had fallen. A mill mutual insurance was growing up in New England, which was rather a method for loss reduction by mechanical fixtures and structural devices, than provision for mere indemnification of loss. The American Exchange and Review gave in March, 1880, the following summary of ideas or projects for fire-loss reduction in textile and other factories, more or less practicable under the condition that the cost of such loss reduction should not exceed the fire cost otherwise:—

1. Adoption of one-story mills, wherever practicable, with incombustible [non-inflammable] partitions, a cement floor, and no cellar; also same arrangement for two-story mills, with the second floor incombustible, and division walls, extending through the roof, having sliding iron-doors for communication.
2. Extra-thick walls for lofty mills, with iron girders and brick and cement floors, and incombustible roofs.
3. An efficient, trustworthy night-watchman, carrying and using in all parts of the mill a watchman's clock.
4. Water tanks of ample size, elevated so that the bottom shall be above the roofs; also proper connecting pipes, valves and hose to each room. These fixtures should be regularly examined, and, if possible, accessible from the outside by fixed iron-ladders and platforms.
5. Steam pipes directly from the engine boilers, or a special boiler, and extending to every room, or at least to the most dangerous places; valves accessible from the outside, and always kept in working order.
6. An ample supply of water buckets in every room and on every landing of stairways; the water to be carefully replenished, and enough salt put therein to the point of saturation. The theory of this use of salt is, that hydrochloric acid—a non-supporter of combustion—will be evolved by the heat.
7. Portable extinguishers to be located at various points in the mill, mainly on stairway landings; also powders for stifling flames when thrown upon them, and ammoniacal water in closed vessels for similar purpose.
8. Automatic devices which, by the burning of cords, the fusing of tin wire, or expanding of other metals, will sound a sufficient alarm in case of fire.

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\* *Buckley vs. Columbia Insurance Company*. Supreme Court of Pennsylvania. Error to the Court of Common Pleas, No. 3, of Philadelphia county.

September, 1871, Buckley & Co. took out a five-year policy for \$3,000 in this Columbia county mutual, for which they paid a cash premium of \$67.50, and gave a premium note for \$1,350. September 9, 1872, they again paid \$67.50 cash premium. In 1872 the company called for an assessment of 7 per cent., and in 1873 and 1874 each for one of 6 per cent. These assessments were respectively entitled 14, 15 and 16. By the certificate of the secretary of the company it appeared that, January 9, 1875, the company called for assessment No. 17 of 25 per cent., and on the same day one for 38 per cent. to cover liabilities which previous assessments had failed to meet. This last was designated the deficiency assessment. Suit was brought to recover for the deficiency assessment and No. 17. At the second trial (the court in the first trial having failed to instruct the jury that it was necessary for the company to prove notice of assessment), defendants gave evidence that total assessments had been excessive, amounting to \$119,500, while the liabilities were only \$51,129.33. It appeared, however, from the testimony of defendants' own witness, and on cross examination, that the amount received from the various assessments did not exceed \$35,000. In charging the jury the court said such was not a defence, unless the directors fraudulently or wantonly abused their power by making the assessment too large. Verdict being for the plaintiff, on assignment of error the Supreme Court affirmed the judgment.

Gordon, J.: . . . . . The reason for the meagre returns from assessments so large is discovered in the fact that about one-third of the premium notes held by the company are worthless, because of the insolvency of the makers, and many of the others, like those of the defendants, are in process of litigation, and are therefore not available. Thus it is that the defendants . . . have shown that these officers have but complied with their duty in thus endeavoring to rescue the company from its embarrassments and save it from total insolvency . . . . . (11 Norris, 501.)



9. Automatic arrangements which will turn steam or carbonic-acid gas into fire-attacked rooms, or water from sprinkling pipes for same purpose.

10. Automatic devices which will summon fire engines by a telegraphic communication, when such engines are located in the neighborhood of the factory.

11. A fire brigade organized among the male operatives, drilled at stated periods, and having periodical duties; also stationary steam pumps for throwing streams of water and filling tanks.

12. Ladders and hose outside; the latter connected with a public water pipe, or a private reservoir having height and pressure sufficient to carry a stream of water to the roof.

13. A regulation, always to be observed, to close all window-sashes after work at night, in all seasons.

14. Absence of iron shutters, but wire guards for lower windows instead, and battlement walls extending two feet above the roof where the mill abuts on other buildings.

15. Competent periodical boiler inspection.

With the initiative taken by Henry W. Brown, an insurance agent, a meeting of manufacturers, principally of textile fabrics, was held in Philadelphia, April 16, 1880, to consider the feasibility of establishing such a combination of loss reduction and insurance. There were but few, if any, factories in the city which could pass a competent survey of the kind required, but the project was considered practicable, and a mill owners' insurance company was started. The Philadelphia Manufacturers' Mutual Fire Insurance Company was incorporated August 2, and organized before the close of the year, with Henry W. Brown as president, and John W. Miller, Jr., as secretary. A convention of mill mutual insurers meeting at Providence, R. I., the previous year, had enunciated a doctrine which clearly defined the mill mutual position, insurance-wise, viz.: Extra hazardous is not mutual. The problem, therefore, to be solved was, what factories could be withdrawn from the extra hazardous category? The *jeopardy* of the possible large fire would, however, have to be eliminated before it would be wise for the factory owner to take the risks of assessment in preference to the certain cost of fixed premium.

The account of the receiver of the Penn Fire showed, upon being audited, a balance, November 22, of \$8,173, two dividends, together 30 per cent. of claims, having been paid to the applying claimants. The final distribution was delayed by the question whether payment for losses by *La Caisse Générale*, under the reinsurance contract, constituted a special fund to pay in full claimants for such losses, or should be part of the assigned assets in general, to be distributed *pro rata* among all the creditors.

According to the United States census, the manufacturing industries of the city made no progress in annual production in the decade ended with 1880. Total value of products in this year \$324,342,935, against \$322,004,517 in 1870. Other data were as follows:—

	Classes of industries.	Establishments.	Employés.	Capital.
1870, . . . . .	256	8,184	137,496	\$134,247,430
1880, . . . . .	250	8,567	185,527	187,148,857

These figures indicate that 383 more establishments, 48,031 more work-people, and \$52,901,427 more capital added only \$2,338,358 to the yearly production, owing to decline in prices. Allowing general expenses to equal but 10 per



cent. of value of production, the cost of producing the \$324,342,935 in 1880 was:—

Materials, . . . . .	\$199,155,477	
Wages paid, . . . . .	64,265,966	
General expenses, . . . . .	32,434,293	
		\$295,855,736
		<u>324,342,935</u>
		\$29,487,199

This shows a margin of 9 per cent. between cost of production and value of production, conditioned, however, upon the actual rate of general expenses. An addition of 15 per cent. to the wages of all the related labor would have added \$9,639,894 to the wages paid by the establishments, and \$29,873,320 to the cost of materials (the products of other labor), and a large part of the production here considered would have been impossible.

Industries whose products were respectively over \$1,000,000 in value in 1880 were of fifty-two kinds, as defectively classed in the census, against sixty-six in 1870. There was always some degree of probability, according to concentration of value, that some one of the whole of the more hazardous interests would experience in some year, a fire loss equal to 5 @ 10 per cent. of the whole capital involved in such industry in the city. Philadelphia establishments using machinery were subjected to fire outbreaks amounting per annum, to about  $1\frac{3}{4}$  per cent. of their number, as a mean—such ignitions including solely those causing a loss above \$100 in each case.

*Manufacturing Establishments in Philadelphia, in 1880, producing annually over \$1,000,000 each.*

INDUSTRIES.	Estab- lish- ments.	Number of employés.	Capital.	Value of production in 1880.
Bookbinding and blank-book making, . . . . .	51	1,745	\$ 853,250	\$1,631,970
Boots and shoes (including custom work and repairing), . . . . .	581	7,535	2,970,190	9,034,496
Brass castings, . . . . .	38	625	782,001	1,369,151
Bread and other bakery products, . . . . .	849	2,348	2,633,908	5,735,533
Brick and tile, . . . . .	78	2,957	2,342,453	1,698,536
Carpentering, . . . . .	326	2,701	1,556,630	5,131,862
Carpets (other than rag), . . . . .	170	8,823	7,194,483	14,263,510
Carriages and wagons, . . . . .	110	1,578	1,921,300	2,057,119
Cars (railroad, street, repairs), . . . . .	19	1,197	1,397,792	3,174,145
Clothing, men's, . . . . .	426	17,646	8,726,276	18,506,748
Clothing, women's, . . . . .	49	2,656	792,950	2,466,410
Coffee and spices (roasted and ground), . . . . .	16	189	509,500	1,294,986
Confectionery, . . . . .	173	1,317	1,236,390	2,653,074
Cordage and twine, . . . . .	10	637	925,500	1,541,748
Cotton goods, . . . . .	145	10,793	8,332,550	14,268,696
Drugs and chemicals, . . . . .	54	2,237	10,185,164	11,804,793
Dyeing and finishing textiles, . . . . .	57	1,852	2,359,846	4,316,405
Flouring and grist mill products, . . . . .	17	82	237,800	1,954,715
Foundry and machine shop products, . . . . .	226	9,936	12,231,058	13,455,238
Furniture (including chairs), . . . . .	218	3,283	3,239,923	5,229,047
Glass, . . . . .	10	2,237	1,202,419	1,621,959
Glue, . . . . .	3	560	1,657,500	1,626,000
Grease and tallow, . . . . .	11	69	268,975	1,120,198
Hats and caps (not including wool hats), . . . . .	63	1,836	792,253	2,300,786

INDUSTRIES.	Estab- lish- ments.	Number of employés.	Capital.	alue of production in 1880.
Hosiery and knit goods, . . . . .	95	8,306	\$3,402,690	\$8,173,415
Iron and steel, . . . . .	16	2,068	2,999,245	4,257,179
Iron bolts, nuts, washers and rivets, . . . . .	10	1,079	876,500	1,395,606
Leather (dressed skins), . . . . .	54	2,258	2,584,747	6,741,796
Liquors, malt, . . . . .	96	1,312	7,258,350	5,897,811
Looking-glass and picture frames, . . . . .	55	748	700,143	1,180,400
Malt, . . . . .	18	225	2,075,000	1,879,460
Marble and stone work, . . . . .	110	1,420	1,764,488	2,104,721
Millinery and lace goods, . . . . .	40	1,278	593,300	1,518,578
Mixed textiles, . . . . .	87	10,615	8,391,651	14,998,779
Painting and paper-hanging, . . . . .	349	2,019	727,227	2,097,052
Paints, . . . . .	21	401	1,776,742	2,068,505
Paper (not specified), . . . . .	7	452	960,000	1,411,830
Patent medicines and compounds, . . . . .	35	255	1,648,800	1,159,198
Plumbing and gas-fitting, . . . . .	241	982	719,744	1,510,645
Printing and publishing, . . . . .	181	5,086	5,728,911	6,834,964
Saws, . . . . .	3	1,191	1,402,500	1,517,000
Ship-building, . . . . .	51	1,706	3,321,731	3,267,981
Shirts, . . . . .	49	2,392	708,294	1,796,311
Silk and silk goods, . . . . .	47	,920	1,313,900	3,162,340
Slaughtering and meat-packing (not including retail butcher establishments), . . . . .	19	359	1,965,625	7,869,114
Soap and candles, . . . . .	32	432	1,410,262	2,033,403
Sugar and molasses (refined), . . . . .	11	1,078	6,072,000	24,294,929
Tinware, copperware and sheet-iron-ware, . . . . .	272	1,646	1,334,322	2,660,969
Tobacco, cigars and cigarettes, . . . . .	473	2,138	1,268,465	2,617,725
Umbrellas and canes, . . . . .	28	1,777	1,368,900	2,804,874
Woolen goods,* . . . . .	89	11,244	11,752,900	21,349,810
Worsted goods, . . . . .	24	4,337	4,459,639	8,327,282
52 Industries, . . . . .	6,213	154,563	\$152,936,187	\$273,188,802

There were included in the report of the manufacturing concerns of Philadelphia the following, whose production in 1880 was between \$700,000 and \$1,000,000:—

INDUSTRIES.	Estab- lish- ments.	Capital in 1880.	INDUSTRIES.	Estab- lish- ments.	Capital in 1880.
Agricultural implements, . . . . .	8	\$454,000	Jewelry, . . . . .	29	\$426,901
Bags (paper), . . . . .	11	305,200	Lead (bar, pipe, sheet and shot), . . . . .	3	365,000
Blacksmithing, . . . . .	258	397,730	Leather (curried), . . . . .	22	251,706
Boxes (fancy and paper), . . . . .	33	417,000	Lithographing, . . . . .	23	647,550
Boxes (wooden, packing), . . . . .	46	329,870	Masonry (brick and stone), . . . . .	78	256,100
Brooms and brushes, . . . . .	60	447,884	Paper-hangings, . . . . .	4	820,000
Cooperage, . . . . .	72	424,650	Saddlery and harness, . . . . .	116	333,964
Cutlery and edge tools, . . . . .	33	1,120,292	Sash, doors and blinds, . . . . .	25	819,771
Fertilizers, . . . . .	13	610,400	Watch cases, . . . . .	9	530,175
Galvanizing, . . . . .	5	330,000			
Hardware, . . . . .	39	575,700			
20 Industries, . . . . .	887				

\* Exclusive of hosiery, "carpets other than rag," mixed textiles, and worsted goods.

In respect to particulars of fire hazard, the classifications of 1880 which had production over \$1,000,000 each may be comprised in nine groups, as follows, with some special causes of fire outbreak or extended inflammation. Jeopardies named do not include what are general to all—*i. e.* illumination (lights as open, closed or swinging), size of buildings and premises, exposure, incendiarism, defective construction of flues, walls, floors, etc., elevators, lightning, steam boiler condition, matches, smoking, uncleanness, location of steam power, etc. Where heat, other than for steam boilers, is an active (not merely incidental) agent in the work performed, general, comparative degree of such agency is indicated by \* slight, † medium, and ‡ high. What is here specified is rather partial suggestion of technological hazard than detail thereof.

*Chemical action.*

‡ Drugs and Chemicals:—Sulphuric acid and ether production, grinding, explosion of gases.

\* Patent Medicines and Compounds:—Grinding of drugs, mixing same with oils, etc.; presence of volatile oils, benzine and naphtha as ingredients; spontaneous ignition, inflammable stock.

‡ Sugar and Molasses, refined:—General high temperature, violent chemical processes, use of boneblack filters, and storage and revivification of boneblack, constant boiling of pans, mixing of lime and syrup, friction of heavy machines, such as wizzers; making of barrels, if performed; chemical constitution of sugar, stock of barrels.

*Semi-chemical action.*

\* Glue:—Unclean surroundings, spontaneous ignition, friction from machines for subsidiary productions, such as curled hair, whips, sand-paper, etc.; friction and dirt of large automatic glue-drying machines, general danger of heat drying, mixing components for marine glue, boneblack and fertilizers as by-products.

† Liquors, malt:—Explosive dust from grinding of malt and hops, furnaces when used for heating pans and vats, friction of machinery, boiling over and use of pitch and rosin, ice-house risk.

† Malt:—"Warm sweat" process, kiln drying in general, automatic kilns, dust from malt.

\* Paints:—Ignition of materials around white-lead jars, uncleanly surroundings in mixed paint works; oils, benzine, turpentine and naphtha in processes and in stock.

† Soap and Candles:—Furnaces for soap pans, superheated steam, if used; overflow of pans, spontaneous ignition and friction among candle machines, heating of unslaked lime, resin and other high inflammables in process, glycerine as a by-product.

*Grinding.*

† Coffee and Spices, roasted and ground:—Furnaces of coffee roasters, heating of grinding stones for spices and of iron grinding-mills, friction of heavy machinery, inflammable stock of spices and light wooden boxes, carpenter-shop risk if boxes are made on premises.

Flouring and Grist Mill Products:—Explosive dust from smut-cleaning and middlings-purifier machines, and from other processes, wheat heaters, heating of grinding stones and rollers, shafting out of line, heating and sparks from heavy cogwheels, barrel department if on same premises, inflammable stock of barrels.

*Leather working and production.*

Boots and Shoes, including custom work and repairing:—Great number of machines and friction on many of them, benzine used in certain processes, hot polishing-irons and modes of heating the same, making of black-paste dye and flour paste, spontaneous ignition from paste among muslin lining *débris* in pasting room, dust and heat from buffing machines, heel burnishing.

Leather, dressed skins:—Cutting and grinding bark (friction and dust), piles of bark in strips and ground; accidental slaking of lime, spontaneous ignition from unclean currying surroundings, certain depilatory processes, embossing and glazing processes, and ovens therefor.

*Machinery manufacture.*

† Brass Castings:—Pattern making and patterns, furnaces for melting materials for brass, presence of hot melted-brass as being cast.



† Foundry and Machine-shop Products:‡—Iron-melting cupolas and sparks from same, furnaces for melting brass, carpenter-shop risk of pattern rooms of foundry and machine-making shops, stock and large value of patterns, mingling of carpenter and cabinet-making risks in making of cotton and woolen machinery, blacksmith forges, ovens for annealing and tempering metals, heavy friction of certain machines, spontaneous ignition of oiled waste, furnaces in boiler shops for heating bolts and bending plates, red-hot bolts carried about for use.

*Metal working.*

‡ Iron and Steel:—Melting and puddling furnaces, forges, red-hot metal in processes, heavy friction of machinery, spontaneous ignition of oiled rags.

† Iron Bolts, Nuts, Washers and Rivets:—Numerous medium and small forges and furnaces, resembling in risk large blacksmith shop; spontaneous ignition of oiled rags.

† Iron Forgings, Nails and Spikes, Wrought Pipe, Wrought Railings (four classes combined):—Large furnaces and steam hammers, friction of nail and pipe machines, forges for pipes and railings, spontaneous ignition of oiled rags.

† Saws:—Large and medium forges and tempering ovens, blast fans, spontaneous ignition of oiled rags.

\* Tinware, Copperware, Sheet-iron ware:—Medium forges and ovens, heating of soldering irons and their presence along with rosin.

*Textile manufacture.*

Carpets, other than rag:—Risk in picker, carding and spinning rooms, friction, igniting waste and flyings, spontaneous ignition of oiled waste.

Cotton Goods:—Risk from spreader and picker; also in carding, drawing and spinning rooms from waste and flyings; friction.

\* Dyeing and Finishing Textiles:—Heating of piles of damp goods and yarn, drying machines and fans, drying houses and rooms, singeing process, spontaneous ignition of neglected goods, inflammable drugs in stock.

Hosiery and Knit Goods:—Risk from picker, waste and flyings in carding and spinning rooms, friction and spontaneous ignition of waste; additional danger if cotton yarn be produced on same premises.

Mixed Textiles:—Added danger to the woolen risk (such as for hosiery and woolen goods) from cotton in mixture, much use of shoddy. This industry, the least cleanly of the textile risks, combines nearly all the danger of cotton and of woolen mills, and burns accordingly.

\* Silk and Silk Goods:—Heating of damp piles of silk, or of piles of damp piece goods, especially if heavily weighted in dyeing; hot drying and calendering machines, singeing process.

\* Woolen Goods:—Picker, oiled waste, flyings and wool dust in carding and spinning rooms, friction, oiling and oil, fulling, drying and calendering machines in finishing.

† Worsted Goods:—To the hazards named for woolen manufacturing is here added that for heating combs, a risk probably not as great as formerly.

*Wood working.*

Carpentering:—In medium and small shops the shaving and glue-pot dangers, in large shops friction from high speed of circular saws and other machines, small planers, jig, band and circular saws.

Cars, railroad, street, and repairs:—Carpenter-shop risk in preparing trucks, frames, roofs, etc.; cabinet-maker and upholstery risks for seats and finishing interior of cars, preparing paints and painting, varnishing, presence of benzine and turpentine.

\* Carriages and Wagons:—Shaving risk, blacksmith forges, open fires for fitting on tires, mixing paints and varnish, and use of same, materials used in the upholstering, stock of lumber.

Furniture, including chairs:—Risks of steam carpenter-shops with addition of painting and varnishing, use of linseed oil and rags for polishing, veneering, use of benzine against moths, stock of paints, benzine, turpentine, etc.; very inflammable finished work, use and storage of wood fibre for filling seats and backs, drying of light lumber.

Looking-glass and Picture Frames:—If mouldings be made on the premises, there is a full wood-working risk; a gilder's risk with use of hot irons, a moderate carver's risk, inflammable stock of very thin backing-boards, varnish and oil risks.

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‡ Includes four industries separately classed in 1870, each having then over \$1,000,000 annual production, viz.: Machinery (not specified), locomotives, engines and boilers, cotton and woolen machinery.

Lumber planed, Lumber sawed, Sash, Doors and Blinds (three industries combined):—Danger from great quantities of chips, shavings and saw dust among large machines running at excessive speed; use of shavings under boilers, heating and use of glue pots.

Ship building:—This, if all wood, has risk less than the carpenter shop, because of use of harder wood and larger pieces, but there is more exposure. If in part iron vessels, there are machine-shop and boiler-shop risks added.

*Miscellaneous—in some much hand work.*

Bookbinding and Blankbook making:—Open sheets and waste pieces of paper, heating of polishing irons and stamps and their use in gilding, presence of benzine in processes, waste, glue heating, friction, color ingredients for marbling paper.

† Bread and other Bakery Products:—Heat from ordinary ovens, friction of certain machines, and modes of drying fancy cakes in cracker and biscuit factories.

† Bricks and Tiles:—Little danger in a brickyard, except exposure to sheds. In making tiles, some danger from mixing machines and from baking and tempering ovens for tiles.

Clothing, men's:—Much *débris* of cotton linings, thread, etc.; coals from pressers, low location of gas jets, spontaneous ignition.

Clothing, women's:—Greater danger than the one just preceding, because of lighter materials used.

† Confectionery:—Furnaces and pans for melting sugar, etc.; also oscillating pans for finishing certain confections; starch and rice dust, seed grinding.

Cordage and Twine:—Friction of the very heavy machines twisting rope, friction on machines opening and carding and spinning hemp thread.

† Glass:—Melting and annealing furnaces, occasional explosion, large quantity of hay and straw in packing department, danger from stock of wooden boxes.

† Grease and Tallow:—Heat from large rendering vats, whether by furnace or superheated steam; spontaneous ignition, very inflammable stock.

\* Hats and Caps, not including wool hats:—Furnaces and pans for heating and shaping hat bodies, use of paste and stiffening preparation for bodies of silk hats, much *débris* of light linings and paper, along with employment of much youthful help.

Marble and Stone work:—An industry of no special fire risk.

Millinery and Lace Goods:—The dangers are similar to those in making women's clothing, increased by much lighter and more combustible materials and more *débris*.

Painting and Paper-hanging:—Presence of paint, turpentine and benzine in painting; use of braziers. The risk of a wall-paper works is mainly in the presence of inflammable sizing, etc., making of woolen flocks, with drying of damp sheets by artificial heat.

\* Paper, not specified:—Rapid machines for tearing and cutting muslin and linen preparatory to wet grinding into pulp; danger from rapid cutting and rasping machines for material of wood-paper pulp, heat from Foudrinier machines, drying rooms, spontaneous ignition of oiled waste paper, storage and cutting of straw, digesters boiling for pulp, making of sizing.

Plumbing and Gas fitting:—In the former, the means used to melt lead; in both, spontaneous ignition of oiled rags.

Printing and Publishing:—Great quantities of clippings, waste paper and open sheets, benzine, friction of belting, spontaneous ignition from oiled rags and cotton waste.

Shirts:—Large amount of open muslin pieces in process, and much *débris*, thread, etc.; heating of sad-irons in finishing, and use of spermaceti therewith; drying rooms, extensive ranges of pine counters and shelving.

Slaughtering and Meat packing, not including retail butchering establishments:—Furnaces for boiling certain parts of the animal to obtain fat, oil, gelatine, etc.; cooperage and packing department, risk in making and storing barrels and casks.

\* Tobacco, Cigars and Cigarettes:—Heat in sweat chambers, drying modes for leaf tobacco, friction of large machines making plug tobacco; paste and gum, unclean surroundings and *débris* of cigar-making; same in regard to cigarettes, danger from much open paper for the latter, some friction in cigarette machines, spontaneous ignition.

Umbrellas and Canes:—Turning risk in making sticks, and in carving shop for heads of same, machine-shop risks in forming frames, presence of silk and cotton pieces for covers, inflammable stock.

An account made up by the Textile Record from the patrol reports showed for the seven years ended December 31, 1880, total fire losses in the city



amounting to \$7,681,458, of which amount \$2,308,736 were textile-mill losses, or 30.06 per cent. The number of textile-mill fires was 263, number of other fires 4,986; average loss of textile-mill fires \$8,778, of other fires \$1,078. Average number of textile mills burning per annum was  $37\frac{4}{7}$ , with average annual loss of \$329,819. Textile-mill capital of the city, per United States census report for 1880, was \$47,415,259; a loss of \$329,819 of such capital by fire annually would represent a fire cost per year of 0.70 per cent. Though causing 30 per cent. of the fire loss, textile mills produced but 5 per cent. of the fires. In the seven years noted, the origins of the 263 such mill fires were: Picker 104, dryers 28, spontaneous ignition 27, hot journals 17, stoves, lamps and gas 30, unknown and miscellaneous causes 57. There were fire outbreaks at the rate of one in twenty textile mills per annum, but the ten different interests enumerated represented at least thirty different degrees of hazard, producing a fire cost ranging from 30 cents to \$3.50 per \$100 of property value, or \$5.50 for insured value in the latter case.

November 16, 1880, the Lion Fire, of London,—J. Norman Jackson, agent,—was admitted in Pennsylvania, and December 4 the Scottish Union and National, of Edinburgh,—S. D. Hawley, agent,—was admitted; the Scottish Commercial, of Glasgow, withdrew this year from the United States. The last-named branch office wrote \$3,375,429 in Pennsylvania in 1879, received \$32,918.11 for premiums, and incurred \$46,307.28 of fire loss. A notable addition had been made to the non-American fire offices by the reëtrance of the Phœnix, of London, October 25, 1879,—E. B. Clark, attorney,—after the lapse of sixty-nine years from its departure from the city under the compulsion of prohibitory State legislation arising from ignorance of the probabilities attending underwriting. The Phœnix wrote in Pennsylvania, in 1880, \$4,524,785, received \$40,083.34 of premiums, and incurred \$35,660.20 of fire loss. This simple fact was in strange contrast with the proceedings of 1810. The men who, in the first decade of the century, looked upon local fire insurance as their own property, were in their graves; the Phœnix was alive, and, being throughout the world, was in Philadelphia!

The following were admissions and withdrawals or exclusions of other-State fire insurance companies from June 4, 1874, to December 31, 1880. A—admitted prior to the former date; B—continuing at the latter date:—

COMPANIES.	Year of Admission	Year of Withdrawal
Adriatic, New York, . . . . .	A	1877
Ætna, New York, . . . . .	A	1879
Ætna, Chicago, . . . . .	1874	1874
Albany, N. Y., . . . . .	1875	B
Allemannia, Cleveland, O., . . . . .	A	1874
Alliance, Boston, . . . . .	1875	1879
Amazon, Cincinnati, . . . . .	A	1879
American, New York, . . . . .	1879	B
American, Baltimore, . . . . .	1877	1878
American Exchange, New York, . . . . .	1877	B
Amity, New York, . . . . .	A	1879
Arctic, New York, . . . . .	1875	1877
Atlantic, Brooklyn, . . . . .	A	1879
Atlantic and Pacific, Chicago, . . . . .	A	1874



COMPANIES.	Year of Admission	Year of Withdrawal
Atlas, Hartford, . . . . .	A	1877
Aurora, Cincinnati, . . . . .	1875	1880
Bangor, Me., . . . . .	1874	1875
Brewers', Milwaukee, . . . . .	A	1877
Brewers and Maltsters', New York, . . . . .	1877	1877
Buffalo, N. Y., . . . . .	1874	B
Buffalo-German, New York, . . . . .	1874	B
Capital City, Albany, . . . . .	A	1878
Citizens', Newark, N. J., . . . . .	A	1877
Citizens', St. Louis, . . . . .	A	1880
City, Richmond, Va., . . . . .	1876	1878
City, Providence, R. I., . . . . .	A	1875
Clay Fire and Marine, Ky., . . . . .	A	1876
Clinton, New York, . . . . .	1877	B
Columbia, New York, . . . . .	A	1880
Commerce, New York, . . . . .	A	1878
Commercial, San Francisco, . . . . .	1875	1875
Commonwealth, Boston, . . . . .	1875	B
Cooper, Ohio, . . . . .	1875	1875
Detroit Fire and Marine, . . . . .	1876	B
Equitable, Tenn., . . . . .	A	1878
Fairfield, Conn., . . . . .	A	1880
Faneuil Hall, Boston, . . . . .	A	1880
Farmville Insurance and Banking Company, Va., . . . . .	1876	1877
Firemen's, Newark, . . . . .	1875	B
Firemen's, New York, . . . . .	1877	B
Firemen's, Baltimore, . . . . .	1877	B
Firemen's Fund, New York, . . . . .	A	1878
Firemen's Trust, Brooklyn, . . . . .	1877	B
Franklin, Boston, . . . . .	1876	B
Franklin, New York, . . . . .	{ 1877 1878	{ 1877 1878 }
Franklin, Indiana, . . . . .	A	1876
Franklin, Virginia, . . . . .	A	1876
German, Baltimore, . . . . .	1876	1880
Germania, Newark, . . . . .	1874	B
Germania, New Orleans, . . . . .	1875	1877
Germania, Elizabeth, N. J., . . . . .	1875	1879
Globe, Boston, . . . . .	1875	1877
Globe, Cincinnati, . . . . .	A	1874
Globe, Chicago, . . . . .	A	1875
Globe, New York, . . . . .	1879	1880
Gloucester, Mass., . . . . .	1876	1879
Granite, Richmond, Va., . . . . .	1875	1879
Guaranty, New York, . . . . .	1875	1877
Hibernia, Cleveland, O., . . . . .	A	1874
Home, Newark, . . . . .	1874	1879
Home, Columbus, O., . . . . .	A	1878
Homestead, Watertown, N. Y., . . . . .	1874	1877
Hudson, Jersey City, . . . . .	A	1880
Humboldt, Newark, . . . . .	A	1878
Jefferson, New York, . . . . .	1880	B
Jefferson, St. Louis, . . . . .	1877	1877
Jefferson, Steubenville, O., . . . . .	A	1880
Kansas, Leavenworth, . . . . .	A	1875
Knickerbocker, New York, . . . . .	1879	B
King's County, " . . . . .	1877	B
Lenox, New York, . . . . .	1877	1879
Maryland, Baltimore, . . . . .	A	1878
Manufacturers and Builders', New York, . . . . .	1879	1880
Mechanics' Mutual, Boston, . . . . .	1877	1880
Mercantile, Chicago, . . . . .	A	1874
Mercantile, Cleveland, . . . . .	1876	B
Mercantile Marine, Boston, . . . . .	1879	B
Merchants', New York, . . . . .	1875	B
Merchants and Mechanics', Richmond, . . . . .	1875	B

COMPANIES.	Year of Admission	Year of Withdrawal
Meriden, Conn., . . . . .	A	1880
Milwaukee Mechanics' Mutual, . . . . .	1875	1880
Millville Mutual (F. & M.), New Jersey, . . . . .	1876	1880
Mississippi Valley, Memphis, . . . . .	A	1876
Mobile Fire Department, . . . . .	1875	1877
Narragansett, Providence, . . . . .	A	1874
National, Baltimore, . . . . .	1877	B
Newark City, N. J., . . . . .	1876	B
Newark Mutual, N. J., . . . . .	1877	1878
New Hampshire, Manchester, . . . . .	1874	B
New Jersey Fire and Marine, Camden, . . . . .	A	1876
New Orleans Insurance Association, . . . . .	1874	1878
New Orleans Mutual, . . . . .	A	1875
Newport Fire and Marine, Providence, . . . . .	1874	1875
New-York and Boston, . . . . .	1876	1880
New York and Yonkers, . . . . .	A	1875
New York Bowery, . . . . .	1878	B
New York Central, . . . . .	1874	1878
New York City, . . . . .	1877	B
Ohio, Dayton, . . . . .	1880	B
Old Dominion, Richmond, . . . . .	A	1876
Park, New York, . . . . .	1877	B
Paterson, N. J., . . . . .	1875	1877
People's, Memphis, . . . . .	A	1876
People's, New York, . . . . .	1879	B
People's, Trenton, N. J., . . . . .	A	1880
Planters', Memphis, . . . . .	A	1876
Potomac, Baltimore, . . . . .	A	1874
Residence, Cleveland, O., . . . . .	1875	1875
Resolute, New York, . . . . .	1875	1878
Revere, Boston, . . . . .	1875	1880
Richmond Fire Association, . . . . .	1875	1877
Ridgewood, New York, . . . . .	A	1878
Roger Williams, R. I., . . . . .	A	1879
Rutger's, New York, . . . . .	1877	B
Safeguard, New York, . . . . .	1874	1879
Shawmut, Boston, . . . . .	1875	1879
Standard, N. J., . . . . .	1874	1880
Sterling, New York, . . . . .	1878	B
St. Joseph, Mo., . . . . .	A	1878
St. Louis, Mo., . . . . .	A	1877
St. Nicholas, New York, . . . . .	A	1880
Toledo, O., . . . . .	1875	1877
Trade, Camden, N. J., . . . . .	1874	B
Traders', Chicago, . . . . .	A	1878
Union Marine and Fire, Texas, . . . . .	1874	1878
Union, Buffalo, . . . . .	1875	1880
Union, San Francisco, . . . . .	1880	B
Virginia State, Richmond, . . . . .	1875	1880

It was written of January 8, 1881, that "in all places where fire insurance is the thought and vocation, there was one sorrow." That day the funeral services were held of William G. Crowell, secretary of the Pennsylvania Fire Insurance Company, and chief acting executive official, who had died on the fourth of the month. He entered the office of the Pennsylvania Fire in 1854 as a clerk, and as successor from 1860 of Secretary Beaton Smith, made for the company a place and career among the foremost fire insurance institutions of the country. His characteristics as a fire insurer and as a man were thus portrayed:—

One word describes the fitness of Mr. Crowell as a fire underwriter—adaptability. He comprehended the fire insurance situation, and could, with apt readiness, follow it through its sinuous emergencies. He understood fire insurance as a commercial uprightness, not

as a legal trickery or a series of sharp practices. He believed in it as part of the faith which he held in all goodness. He knew that equity and fairness and truth in practice are the most cunning defences that can be employed against all the assailments of insurance. Further than this, he had the wise intuition which lies at the base of correct insurance. He apprehended that the casual is, in its order, of as certain occurrence as the general and the universal. Modest, reticent, and retiring, he yet affiliated with all organized effort which tended to better his calling. He took part in the workings of the National board, and also the local board and fire patrol of his city, and at every point he was ready to serve where service was needed.

Of all pursuits which divide the activities of people, insurance presents the greatest contrast of personal character—some of it not pleasant to think of. Over one new grave there floats no cloud of doubt, and one memory is stainless. So far as is given to frail and failing humanity, this one gone filled the measure of the least imperfect life. With us is the conviction held in his living day no less than in this mourning hour: Insurance has not a better man to die.

Assistant Secretary John L. Thomson was elected secretary after the decease of Mr. Crowell.

In a suit in Common Pleas, No. 2, against the liquidating American Underwriters' Association, happening through a fire, January 4, 1876, in Paris, Lamar county, Texas, the plaintiff had claimed that the policy sued upon, and produced in court, had been issued by one Barry, appointed sub-agent by E. H. Angomar, Jr. & Co., as general agents at New Orleans, of the Association; but the defendant corporation objected that no authority was shown in Angomar, Jr. & Co. to make such agreement on the part of the defendant, and further, because the execution of the agreement was not proved. Plaintiff called upon the defendant to produce the application for the policy. Defendant's counsel replied that no application had been received. Deposition of Hadley, agent of Mrs. George, owner of the burned property, was read in evidence, testifying that after the fire he furnished proof of loss to Barry, and Barry testified that he transmitted the proofs to Angomar & Co. No copy of the proofs of loss was kept by either, and the data from which they were made up were subsequently destroyed by a fire which burnt up Paris. Verdict was for plaintiff, but upon hearing of the assignments of error, judgment was reversed.

Gordon, J.: . . . . . In the face of defendant's objection, it was certainly erroneous to admit the policy in evidence without proof of its execution. . . . . Of the agency of Angomar & Co., there was no proof whatever. It is, therefore, difficult to understand upon what principle of law the appointment of Barry was supported; for it is certain that he who would avail himself of the acts of an alleged agent, must, in order to charge the principal, prove the authority under which the supposed agent acted. (*Hay vs. Lynn*, 7 Watts, 525; *Moore's Executors vs. Patterson*, 4 Casey, 505.)

The agreement between Angomar & Co. and Barry, appointing the latter broker and agent for the defendant, was not sufficiently proved, or rather, was not proved at all. Barry testifies that he acted under the authority conferred by this paper, but he neither does, nor was he in a position to prove its execution. The writing was attested by subscribing witnesses, and though not under seal, it ought to have been proved by those witnesses, or one of them, or, as was ruled in *Williams vs. Floyd*, (1 Jones, 499,) by the admission of the parties who executed it.

The court erred in instructing the jury as follows: "The jury are entitled, in estimating the weight of evidence in the case, to consider the circumstances under which it was given, and in this connection you may consider not only what is in the case, but what might and ought naturally to be in it, but is not. When, therefore, the defendant's counsel asks you to say that there is not enough evidence to satisfy you that this policy was issued by the defendant, or with its authority, you may consider, in weighing the evidence on this point, the fact that the officers of the defendant, or some of them, have sat here during the trial, and have not been called to deny the fact, but have chosen to rest their defence on the weakness of the plaintiff's proof; that they had a right to do, but you are entitled to



consider the fact in this connection." This was a mistake, and perhaps the one upon which all the others were founded. The plaintiff, if she expected a verdict, was bound to make out her case; until this was done the defendant had nothing to do, and the fact that it did what was entirely proper for it to do, keep silent, ought not to have been permitted to tell against it. If the plaintiff's case was not proved, the silence of the defendant did not help it.

As the policy, in terms, made the application part thereof, on the authority of the *Lycoming Mutual Insurance Company vs. Sailer*, (17 P. F. Smith, 108,) the policy ought not to have been admitted without the application. As, however, this paper is one which belongs to, and, of necessity, is in the possession of the company, the refusal of the company to produce it on notice would be all that would be required to make the policy admissible without it. . . . (1 *Outerbridge*, 238.)

There had been insured under a policy of the *Allemania Fire Insurance Company of Pittsburgh*, \$2,000 (annual premium  $2\frac{1}{2}$  per cent.), on "two two-and-a-half and four-story brick buildings, adjoining and communicating, occupied as a manufactory of hat bodies, machine shop, and by a steel-pen maker and brass turner, situate on the north-west corner of Twelfth and Buttonwood streets, Philadelphia. Loss, if any, payable to L. Thompson, mortgagee." Policy was issued February 17, 1873. November 3, 1873, the mortgagee bought in the property at foreclosure sale; November 15 the sheriff duly acknowledged a deed poll to Thompson for the premises, which was forthwith duly delivered and entered upon record; December 7 the buildings named in the policy were destroyed by fire. Among the conditions voiding the policy was this:—

If the property be sold or transferred, or any change take place in title or possession, whether by legal process or judicial decree, or voluntary transfer or conveyance; or if this policy shall be assigned before a loss, without the consent of the company indorsed hereon; or if the interest of the assured in the property, whether as owner, trustee, consignee, factor, agent, mortgagee, lessee, or otherwise, be not truly stated in this policy.

No notice of the foreclosure sale and purchase had been given to the company. On the day of the fire Mr. Thompson notified the company's agent of his loss, and demanded payment for the same. Suit being brought in Common Pleas, No. 3, judgment was entered for the defendant corporation January 4, 1878, which, being reviewed by the Supreme Court, such judgment was affirmed February 7, 1881.

*Per Curiam*: . . . There was an undisputed breach of one of the conditions, and the judgment of the court below on the case stated was clearly right. (*Hagaman vs. Allemania Fire Ins. Co.*)

Up to 1875 the risks of the *United Firemen's* had been limited to the city. In 1878 \$100,000 were added to the capital. In 1880, of \$12,910,812 written, \$4,326,962 were Pennsylvania hazards. In this year, as reported, the income was \$215,591.52, the disbursements \$260,915.73, and the net surplus of \$63,195.54 in 1877 had run down to \$10,408.48 by the showing. With withdrawal of agencies in progress and the position of the company uncertain, Robert B. Beath, agent of *La Confiance*, was made secretary March 2, 1881, and he began a thorough investigation into the company's affairs.

March 14, the *Fire Insurance Association (Limited)* of London, Louis Wagner, agent, was licensed to do business in the State.

The *Association of Fire Underwriters* had now disappeared, but without the adjustment of associated experience, fires were making rates, and rates were

fluctuating with the fires. In the spring of 1881 the tendency was to advance, and in the case of mixed mills (cotton and woolen) an enhancement in rate of from 25 @ 50 cents was somewhat established. Burning of the Girard Point fireproof grain elevator, with adjoining warehouses and wharf property,\* April 28, increased the rate on the Richmond elevator from 1½ to 2 per cent.

With claim for advance of premium 25 per cent., the rates of brokers' commission tended to advance 33 per cent.

In an application made in Common Pleas, No. 1, for a preliminary injunction to restrain the reërection of any part of the Belmont oil works, destroyed by a recent fire, the following estimated comparative fire jeopardy was recited by the court from the testimony:—

This application is put mainly, if not entirely, upon two grounds: apprehension of fire, and injury to the well-water of the complainants. It was decided in *Rhodes vs. Dunbar*, (7 P. F. S., 274,) that mere apprehension of fire was not a ground to interfere with the execution of a lawful business. The complainants, however, seek to avoid this, by placing it within the category of gunpowder magazines or other erections for the storage of combustible materials. We do not, however, think the affidavits establish this. The testimony of Professor Cresson, and of the owners, superintendent, and foreman of the works, is to the effect that "the operations of refining petroleum oil cause no greater, and generally not so great a risk to neighboring buildings, as would be caused by the business of a cotton factory, a saw or planing mill, or a wooden stable or barn."

The following declarative enactment to fix the crime of arson upon a person burning property held in possession, was added to the statutes of the State—arson being, at common law, the wilful and malicious burning of the house of another:—

An Act declaring that the possession of defendant as tenant or otherwise, at the time of the commission of the offence, shall not exempt him from conviction and punishment for arson.

SECTION I. Be it enacted, etc., That no principle or policy of law shall, because the defendant shall have been in possession as tenant or otherwise, at the time of the

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\* The adjustment stages and subsequent appraisement of this loss were the most notable in the fire-loss accountings of the city. The following is a statement of the ultimate settlement of the loss in September:

"Account of loss by the Girard Point elevator fire was made up and completed September 23, with a definitive settlement of all questions involved. It appears, with tolerable clearness, that the structure insured was, by the underwriters, neither understood as a fire risk when written, nor comprehended as a fire loss when burned; and it is to be regretted that the systematic valuation by appraisement in detail did not begin immediately after the fire. The storage capacity of the bins is given as 650,000 bushels. A general rule of valuing elevator construction cost—ascertained, among other things during the progress of a laborious investigation—makes 40 cents per bushel of capacity the standard of value, including expense of foundation. Such rule would not apply in the present case. The architecture here was of the most approved fireproof and strain-resisting pattern, the machinery of the most effective method and action. Not only the bins were of iron (rivetted-tight boiler), but the whole main structure was of 'incombustible' material, excepting a small surface of wooden flooring and inside supports of heavy white oak and yellow pine—better in their place than iron—sustaining the grain bins, engines and elevating machinery. Cost of construction was thereby carried above 50 cents per bushel of capacity, exclusive of foundation. The whole, however, was less fire resistive than a pile of grain. Heaps of grain, air being excluded from the bulk, burned slowly for two months, and in an hour or two 900 tons of iron, with walls, posts and grain, fell, crushed into one mass of ruin. The insurance was \$250,000, specific policies on main structure; and \$50,000 excess policies applying to elevator, along with piers, sheds, and other property. Cost of rebuilding, as estimated by the Girard Point Storage Company, \$410,500. Mr. W. H. H. Whiting, of Boston, for the companies, upon insufficient drawings and specifications—afterwards ascertained to be such—made an *ex parte* estimate, but could not, with the data at hand, extend the figures beyond \$246,000. It then being arranged that Mr. W. B. Reaney, the engineer of the elevator, should act for the insured, the appraisement was organized, with Mr. William Sellers as umpire. The inventory of loss has twenty-eight items. Both the appraisers agreed upon \$344,751.66 as the aggregate basis value. From this amount Mr. Whiting deducted 15 per cent. depreciation of machinery and 10 per cent. depreciation of building (it was constructed in 1874 upon a river bank, with sub-foundation of piles), making the net loss, per Mr. Whiting's estimate, \$308,439.49. Mr. Reaney refused to allow for depreciation, added 15 instead of 10 per cent. for contingencies (as allowed by Mr. Whiting), increased the allowance for iron \$8,350, and put \$22,000 more to building item, making his loss figures \$396,772.19. There was, however, no occasion for the action of the umpire, as either award paid the insurance as total loss, with excess policies exhausted on elevator alone."



commission of the offence, exempt any person from conviction and punishment, who shall wilfully and maliciously burn, or cause to be burned, or cause or attempt to set fire to, any building, but such person shall be liable to conviction and punishment, in the same manner and to the same extent as if not in possession. (Approved June 10, 1881.)

In the eleven years ended July, 1880, the number of Fourth of July fires in the city was 181. The annual exposure of the city to peril by pyrotechnic displays on Independence day, producing annoyances and various injuries, was now an evil calling for check. An immense, compactly built city, whose combustible value per square yard of ground area was continually and largely augmenting, could not afford to admit what a small town with an organized fire department might tolerate. Mayor Samuel G. King making an energetic and effective effort to revive and enforce the act of August 26, 1721, (*ante* p. 292,) against the manufacture, sale and exposure to sale of pyrotechnics and explosives, the fire underwriters came forward to declare that "we heartily commend and approve the action of the mayor, and desire to support him" in his proposal to check, if possible, the fire destruction of property. Four dealers were fined five shillings each by Magistrate Ladner, and an appeal to court from his decision was taken, to test whether the act of 1721 was yet operative. June 20, the mayor signed an ordinance passed by councils prohibiting the sale and use of toy pistols, devil bombs or toys, and articles for firing salutes, having gunpowder, guncotton, fulminating powder, or other explosive material in their construction; penalty, \$100 for selling and \$10 for using.

A dividend of 10 per cent. had been paid by the assignee of the National Fire Insurance Company, and some of the claims had been previously sold for 10 per cent. The bill in equity filed by Assignee Freeman against Stine and others, stated the assets at not over \$100,000, with liabilities about \$250,000. It was charged that \$200,000 par of capital stock having been sold to Stine and Halfmann at one-third the par figures for part cash and part notes, Jacob Huntzinger and Jacob R. Eby purchased, or had assigned to them, the former 70 and the latter 80 shares, with 20 shares of stock given to each on their agreeing to become directors without any payment being made for the same. The assignee took exceptions to the master's report thereon, especially in relation to the liability of Eby.

Common Pleas, No. 1. Allison, P. J.:

The master . . . . . finds against the defendant Huntzinger, upon the question of sharing to the extent of about one-fourth of the whole with Stine and Halfmann, in the fraudulent purchase of the 4,000 shares of stock first issued, and that he is, therefore, liable to pay to the plaintiff, on this account, the sum of \$133,333.34, with interest, and also to pay the further sum of \$33,333.34, with interest, being the difference between the par value of the second series of stock, to wit, \$100,000, and the amount actually paid into the treasury on account of the same. Of the correctness of this finding of the master we have no doubt, and agree with him also in his refusal to charge Huntzinger with \$10,000 paid to Halfmann for the charter, which he charges against Stine and Halfmann, less \$450 paid for its enrolment. This was a completed transaction before Huntzinger was elected a director of the company, and it would be applying to him a very hard rule to require him to make good this loss on the sole ground that he subsequently was informed of what had been done, and what price had been paid for the charter. The master finds a very different state of facts, and draws different conclusions as to Eby's liability for loss to the company in connection with the first issue of stock. Eby entered the company as a director at the same time with Huntzinger, and continued to be associated with him until Huntzinger ceased to be a director, Eby remaining in the board



up to the date of the assignment. It is made a matter of earnest contention that the master fails to charge Eby with the two largest items, which, by his finding, Huntzinger is required to pay to the plaintiff, to wit, the sums of \$133,333.34 and \$33,333.34. . . . But still the fact remains that Eby never received the stock, though it was ready for delivery to him. . . . There is no question as to the fact, and the master so finds, that Huntzinger and Eby took part in the resolution of January 16, 1872, to increase the capital stock from \$200,000 to \$500,000, and that \$100,000 should be set aside as a commission for selling the remaining \$200,000 of capital stock; that, under the authority of this resolution, 2,000 shares were sold of the par value of \$100,000, and that one-third of this amount was issued to directors, who disposed of said stock. With the full knowledge that the company was receiving only two-thirds of the par value of the stock, the certificates were signed by Stine and Halfmann. Huntzinger received 185 shares of the par value of \$9,250 for his services, and Eby 153 shares of the par value of \$7,650 for his services in disposing of part of said 2,000 shares of stock. The master has held Stine, Halfmann and Huntzinger for the loss on the whole of this issue, and then asks the question, what is the liability of the defendant Eby upon the facts given?

There are many other questions raised by the exceptions to the findings of fact and decisions of law as they appear in the report of the master, and in the form of the decree which he has reported as proper to be made in this cause. These exceptions, in our judgment, are not well taken, and are therefore dismissed, and the report is to be corrected so as to charge Jacob R. Eby with the sum of \$33,333.34, instead of \$7,650, which the master reports to be the full extent of Eby's liability for loss to the company plaintiff, as represented by its assignee. The said sum of \$33,333.34 to bear interest, and to be charged against Jacob R. Eby from the first day of April, 1872.

The decree as thus amended will be entered, the exceptions covering all other matters excepted to are dismissed, and the report as thus amended confirmed.

There being now no rating by local board, ineffective meetings were held for the purpose of organizing such a board. It had been demonstrated, in respect to such—first, that they were always wanted; second, that there was always a failure of a large part of the membership to work in good faith with the organization. As mere expedients for arbitrary rates or pricings, they were doomed failures from the start. A district organization was, however, effected, which gave early evidence of facility to adjust its workings to the conditions to be met and mastered. A project originated in Philadelphia, to convene at Lancaster, sixty-eight miles west of Philadelphia, representatives of fire companies—Lancaster being at the time the theatre of an active and audacious incendiarism. Tobacco warehouses—important hazards of the locality—were carrying insurance to the aggregate of about \$3,000,000; rates had declined, prior to a reaction just setting in, from 85 to 45 cents. The meeting convened June 28 (1881). In the twelve months then terminating, total premiums received on Lancaster tobacco property were from \$12,000 to \$15,000, and the fire losses on such property in the year, mainly recent, amounted to about \$120,000; *i. e.*, such property was burning at the rate of about 3 per cent. per annum of its value, and about 4 per cent. of the insured value. As one outcome of this meeting an association was formed, composed of various supervising agents and adjusters of Pennsylvania, New Jersey and Maryland, and a committee was appointed to prepare constitution, by-laws, etc., to be submitted to a meeting to be held in Philadelphia, July 19. At this date twenty special and general agents assembled at 117 South Fourth street, and completed the organization of the Association of Supervising Agents of the Middle Department. Officers elected for the first year were: President, A. J. Foster; vice-president, J. B. Kelsey; secretary and treasurer, W. C. Goodrich. Executive committee: Tattnell Paulding, E. C. Irwin, J. F. Roberts, C. K.

Francis and J. R. Mulliken. Mr. Paulding was the originator of the Lancaster meeting. One object of this association was to restrict the adjustment of losses on the insurer's side to the direct representatives of the companies. At the quarterly meeting held in October, it was unanimously adopted:—

That each member of this association report to the secretary any and all defective risks that may come to his knowledge, stating the defects of the same; and that the secretary promulgate such information to all members as soon as practicable upon receipt thereof.

This constituted something of an organized inspection to measure the deficiencies of a given risk from the standard of such hazard representing the minimum of jeopardy. It was an effort to *know* the risk.

At the instance of Secretary Beath of the United Firemen's Insurance Company, Assistant Secretary Rudolph Guth had been removed for incompetency. August 31, President William S. Allen made affidavit charging Guth and two clerks with having, between March 2 and June 1, made written orders upon the treasurer (obtaining deponent's signature thereto), for the payment of moneys in settlement of surrendered policies, such policies having been a long time previously surrendered, and the amounts due thereon paid; charging also that in other cases, after the name of a payee had been forged upon back of order, the orders were placed in the cash drawer, and an amount of money equal to the sum called for taken therefrom by the defendants. Company's checks were also obtained for such false orders. There was a general allegation of conspiracy to cheat and defraud the company of various sums amounting in the aggregate to \$5,000. The accused were held in \$5,000 bail each to answer at court.

Alfred G. Baker had delivered his last address as president of the National board at its fourteenth annual meeting, held April 28, 1880, declining a reelection to the presidency of the board. Early in November, 1881, Mr. Baker tendered his resignation as president of the Franklin Fire Insurance Company, so consummating his purpose to withdraw entirely from official fire insurance administration. At the stated monthly meeting, when Mr. Baker's formal written resignation was presented and reluctantly accepted, the following resolution, offered by Mr. Gustavus S. Benson, was unanimously adopted:—

*Resolved*, That in accepting the resignation of Alfred G. Baker, Esq., as president of this company, to take effect on December 31, next, this board desires to place on record their regret that considerations of health and the great pressure of private business have, in his opinion, rendered this step necessary, and to express their high appreciation of the talent, industry, and entire devotion to the interest and prosperity of the Franklin Fire Insurance Company which have so signally attended his administration of its affairs during his whole term of office, and, as a board, hope that health and prosperity may ever be with him.

Mr. Baker continued in the directory of the company, acting as chairman of the finance committee. In his thirteen years' official connection with the Franklin, he was distinguished for a singularly active and broad participation in insurance affairs, evincing always a zealous earnestness in promoting the interests of fire underwriting.

In a suit in Common Pleas the company asked the court to charge that there could be no recovery, by reason of non-compliance with the terms of the



policy, and no waiver being valid unless endorsed upon it—that being one of its provisions. The jury were instructed that they might infer a waiver from the facts. (*Swartz vs. Ins. Co.*, 15 Phila., 206.)

The Standard Fire Office (Limited) of London, was admitted in Pennsylvania, November 25, 1881; Wister & Peterson, Philadelphia agents, H. B. Buehler, Harrisburg, State agent. By the close of the year the Standard wrote \$2,968,537 in the State, received \$28,954 for premiums, and incurred \$4,789 for losses.

Beginning in August, 1880, and writing \$398,048 in the remainder of the year, in 1881 the Philadelphia Manufacturers' Mutual wrote \$875,405 for \$8,551 cash premiums, and incurred but \$18.16 for loss since organization. There were returned in 1881 \$1,013 to members discontinuing \$388,547 of insurance, and the total cash assessments received since organization were \$11,833.50.

There were, by non-Philadelphia companies, \$784,978 of perpetual insurances written in 1881,\* at an average premium or deposit of 3.21. At the close of the year the perpetual insurances in these companies were as follows:—

	Amount in force, December 31.	Average deposit percentage.
Liverpool and London and Globe, . . . . .	\$9,219,192	3.562
Royal, . . . . .	1,152,853	3.229
Ætna, Hartford, . . . . .	324,300	2.459
Farmers', York, Pa., . . . . .	167,625	3.209
	<u>\$10,863,070</u>	<u>3.488</u>

Total Philadelphia perpetual insurance in force at the close of 1881 was \$292,085,098, deposits thereon \$7,530,490.95; written in the year \$12,100,753, deposits \$327,473.88; cancelled in the year \$7,724,959, deposits \$315,811.93.

The Middle department of the Royal, comprehending the States of Pennsylvania, New Jersey and Delaware, George Wood, manager, was now paying 10 per cent. commission on perpetual fire insurance deposits—the policy being without restrictions as to size of plate-glass windows, wall papers, frescoes, etc.

In January, 1882, Vice-president James W. McAllister became the sixth president of the Franklin Fire Insurance Company, “with the record and the memory of twenty-eight years' service in the company pointing him out for the place.” Francis P. Steel, a director from November, 1874, was chosen vice-president.

Under a perpetual policy the Teutonia Fire Insurance Company contracted to insure Mund & Albrecht in the sum of \$5,000 upon a three-story building used as a hotel. Policy was assigned as a collateral to secure a mortgage upon the premises. Another policy of \$5,000 was issued to Mund & Albrecht by the Franklin. Value of the land was estimated at \$40,000, of the building \$10,000, making value of mortgaged premises \$50,000. By Condition V, the policy, as transferred, became as a specific mortgagee insurance, and therefore “no subsequent breach or non-compliance with these conditions by the owner

\* Tabulation of Philadelphia Perpetual Insurances, by Robert B. Beath.



of the building, without the knowledge of such assignee, shall avoid the insurance, so far as the interest of the latter therein shall be concerned." Policy was transferred by consent of company May 17, 1875. April 1, 1876, the owners set up in the premises a machine for making gas from benzine or gasolene. September 3, 1876, the building was totally destroyed by fire.

With specific mortgage insurance, it was optional with the company to pay upon the loss happening "such proportion of the sum insured as the damage by fire to the premises mortgaged or charged, shall bear to their value immediately before the fire," or else to pay the full amount of the mortgage and receive assignment of same, etc. Under such stipulation the Teutonia held its liability to be one-fifth of \$5,000. In Common Pleas the decision was that the value of the land did not enter into the denominator of the fraction apportioning loss, and so the Teutonia's loss was total. (15 Phila., 291.) Judgment was affirmed.

Supreme Court, January term, 1882:

We are therefore constrained to construe the clause, "the premises mortgaged or charged," to embrace only the premises mortgaged which were insured, and therefore we find no error in the judgment of the court below.

February 7, William E. Owens, president, and A. R. Tomlinson, secretary, of what was called the United Firemen's Mutual Insurance Company, were acquitted by the Court of Quarter Sessions, of the charge of conspiracy to defraud, in obtaining \$22.50 as fire insurance premium. The project had been started under the charter of the Anchor Mutual Fire Insurance Company. The name Firemen's Insurance Company having been adopted, Commissioner Forster refused to recognize the legal existence of such Firemen's Insurance Company; but, October 16, 1880, a decree of the Court of Common Pleas, No. 4, was made, changing the name to Firemen's Mutual Insurance Company. The criminal charge grew out of a factory fire occurring in New York, to which a policy of the "Firemen's" applied—\$500 at 4½ per cent.—the loss under such policy being appraised at \$450. The secretary taking the stand, testified, on cross-examination, his belief that one loss—fire in Bradford county, Pa.—had been paid, but was not certain. Subsequently, Court of Common Pleas, No. 2, vacated the charter of the Firemen's Mutual.

A policy insuring in the Northern Insurance Company of New York,\* a mill at Howard and Berks streets, for one month, was sent to the company's agent February 9, 1880, to be extended to one year. Policy was written two days before. At 2 P. M., February 9, the proposition to insure for one year was declined by the agent; at 8 P. M. the mill burned down. Litigation followed upon the question whether the one-month policy had been cancelled. Verdict for plaintiff, early in 1882.

\* The Northern, of Watertown, was among the eleven other-State companies withdrawing from Pennsylvania in 1881; reported net surplus, December 31, 1880, \$1,232.16. Upon examination, the New York insurance superintendent called upon the stockholders for an assessment of 30 per cent. on the \$250,000 cash capital, to make up impairment. Whereupon it was announced that "it is the intention of the stockholders to pay in the amount, and increase the capital by subscription to \$300,000." In January, 1882, the Northern withdrew from business, reinsuring its risks in the Star, of New York.

Electric illumination, in its new practice, was developing fire contingencies not at first apprehended, and but little understood. Need of a safe path for the current was, however, beginning to be realized, and, in New York, regulations as to insulation and position of wires had been formulated. The burning of a factory on Randolph street, near Columbia avenue, Philadelphia, beginning at 9.30 P. M., October 12, 1881, awakened new attention to electric ignitions. Building was occupied by Joseph Harvey for making knitted goods of cotton and woolen yarns, and was lighted by ten Weston electric arc lights, in glass globes open at the top and bottom, with the dynamo-electric machine on the first floor. Only about forty of the four hundred male and female operatives engaged in the daytime were at work when the fire broke out, and these were in the third and fourth stories. There was a sudden outburst of flame in the second story—the finishing and storage room—and with fire ascending the two stairways affording egress from the building, nine lives (five males and four females) were lost, some by jumping from the windows, but four of the operatives were burned in the mill. It was an instance in which the external iron ladder or stairway affixed to the building, and approached by windows, might have been available as an extra means of escape. The electric lamps emitting falling sparks from carbon-points, hung over looms, stocks of yarn, and other inflammable material. Origin of the fire was, however, altogether conjectural. The theory most generally accepted by those most familiar with the building was that a spark fell from a carbon-point among some light paper used for wrapping and packing. In expert testimony given at the coroner's inquest by Dr. Plush, of the Philadelphia Local Telegraph Company, he said:

I have no faith in the theory that the small pieces of carbon falling from the lamp would ignite anything. They become cool in falling a distance of a couple of feet. In the ill-fated mill the electric wires were placed not more than one-fourth of an inch from a pipe through which passed live steam. From the vibration of the mill it is possible that the pipe may have come in contact with the electric wire, thus explaining the unsteadiness of the light on the evening of the fire. Finally, in my opinion, the lights in the upper stories were shut off by the wires touching the steam pipe, and the whole force from the generator—it not being supplied with an automatic regulator—was thrown on the lights in the second story.

In the excitement produced by this fatal fire, the verdict of the coroner's jury set forth that:—

The jury find that the fire was caused by the improperly constructed and inefficiently managed electrical apparatus for lighting the building. The jury find that Joseph Harvey, owner of the mills, is criminally responsible for the loss of life, in neglecting to furnish proper means of escape in case of fire. The jury find that the city of Philadelphia is responsible for not enforcing the laws in compelling Joseph Harvey to erect proper fire escapes. The jury believes that the book-keeper, William R. Hassenpat, is censurable for not making some efforts to save the lives of the operatives, instead of the effects of the office.

The proprietor of the mill, tenant of the building, was held in \$10,000 bail to answer the charge of manslaughter.

At a monthly meeting of the Franklin Institute, held October 20, the following resolution was adopted:—

*Resolved*, That the president be authorized to appoint two committees, one to investigate and report upon dangers incident to electric lighting, if any, and the means of overcoming them, and the other to examine and report upon the principles which should govern the erection of fire escapes and lifts or elevators in new buildings and on those now erected.



Neither the fire nor the inquiries starting therefrom, contributed any information on the subject of the fire danger of electric illumination. For experimental purposes a circuit was established, in December, at the generating station of the Electric Light Company, and illustration was given of the formation of the voltaic arc at bad joining of the wire sections through the influence of jarring. In the case of the separating ends of broken wire, just as the arc reached its limit a body of flame, globular in form, shot up for an instant. Influence of water was thus shown:—

Water as a conductor, with conductivity resisted, and as an impairer of insulation, was shown by the wires being grounded—that is, the ground made part of a contingent circuit; and a lamp through whose framework the current passed being set upon a wet part of a floor, the water around the base of the lamp soon began to bubble and boil, and then little flashes of fire were seen at the end of the board several inches away, and smoke began to rise. The outward and return wire (or the two ends of the same wire) were then fastened to a board, parallel and at a distance of not more than an inch or an inch and a half one from the other. Both were insulated by a cotton covering. While they were dry there was no discernible effect, but a tin-cupful of water having been poured on the board between them, the water soon saturated the cotton covering, and, with the water as a conductor, connection was soon formed between the wires. The water boiled and bubbled and in a few minutes the wood was charred and began to burn in places near the wires.

It had been noticed on Chestnut street—where there were Brush lamps—and reported to the Franklin Institute, December 21, by Dr. R. E. Rogers, that with one lamp extinguished, others burning, the short copper wire connecting the extinguished light with the main wire had become red hot, and that the covering of the main wire had been burned off for about twelve inches on each side from the point of connection.

James N. Stone, Henry D. Sherrerd and Thomas H. Montgomery were appointed by the Philadelphia Board of Fire Underwriters a special committee, with power to formulate rules for the use of electric wires, lamps, etc., as conditions of insurability. The committee reported for adoption the revised New York standard, with some slight modifications, and so, from date of February 16, 1882, the Standard Requirements for Electric Lighting of the Philadelphia Board were as follows:—

#### CAPACITY OF CONDUCTORS.

*For Arc Lights.*—The conductor must have a weight per running foot at least equal to that of the wire (or parallel group of wires) constituting the main circuit of the magnetic regulator of the electric lamps, or of the armature of the machine employed, whichever of these is the largest.

*For Incandescent Lights.*—Wherever a connection is made between a larger and smaller conductor at the entrance to or within a building, some approved automatic device must be introduced in the circuit of the smaller conductor, whereby it shall be interrupted whenever the current passing through is in excess of its safe carrying capacity.

The safe carrying capacity of a wire is that current which it will convey without becoming painfully warm when grasped in the closed hand.

#### INSULATION.

All wires, machines and lamps to be so mounted and secured as to insure complete and continuous insulation, with the exception of those parts (such as portions of the lamps or machines, for example,) where insulation is impossible, and in this case accidental contact with exterior objects must be prevented by appropriate screens or the like.



In no case must "ground circuits" be employed, or any portion of the system be allowed to come into conducting connection with the earth through water or gas pipes, or otherwise.

Exposed wires must be covered with at least two coatings, one of insulating material next to the wire, of a thickness and material approved by the board, and another outside of this, of a material calculated to protect the former from abrasion or other mechanical injury.

Where there is possible exposure to water, the first or second coating must be impervious to that fluid.

Wherever electricity is carried into a building by conductors from an exterior source, a "cut-out" must be provided at a point as near as possible to the entrance to such building.

The outgoing and returning wires for arc lights should enter and leave each building at points at least one foot from each other.

The wires passing through the exterior walls of a building should be firmly encased in substantial tubes of non-conducting material, not liable to absorb moisture, and placed in such a manner as to prevent rain-water from entering the building along the wire.

In running along walls and the like, wires should be rigidly attached to the same by non-conducting fastenings (the wires themselves being well insulated), and should not be hung from projecting insulators in loose loops.

All wires should be placed at a distance of eight inches for arc lights, and two and one-half inches for incandescent lights, from each other, and wherever they approach any other wire or conducting body capable of furnishing another circuit or ground connection, they must be rigidly secured and separated from the same by some continuous solid non-conductor, such as dry wood, of at least one-half inch in thickness, and wherever possible the wires must be exposed to view.

Wherever wires are carried through walls, floors or partitions in buildings, they must be surrounded by a special insulating tube of substantial material.

All joints in wires must be made in such a manner as to secure a perfect and durable contact. Continuous wires (without joints) to be used as far as possible.

#### GLOBES.

Arc lights must be protected by glass globes, enclosed at the bottom to prevent the fall of ignited particles, and where inflammable materials are present below the lamps, a wire netting must be added to keep the parts of the globe in place in case of its fracture during use.

All broken and cracked globes to be at once replaced by perfect globes.

In show windows and other places where inflammable materials are near the lights, spark arresters shall be placed at the top of the globes.

#### AUTOMATIC SHUNT.

Wherever a current of such high electro-motive force is employed that if concentrated on one lamp of the series, it would produce an arc capable of destroying or fusing parts of such lamp, an automatic switch must be introduced in each lamp by which it will be thrown out of circuit before the arc approaches any such dangerous extent.

Companies furnishing electricity from central stations must enter into an agreement with the Philadelphia Board of Fire Underwriters, binding themselves to test their lines for ground connections at least *once* every day (and preferable three times a day), and to report the results of such tests to the board weekly.

Means by which those in charge of the dynamo-electric machines will be warned of any excessive flow of current, or means whereby the same will be automatically checked, must in all cases be provided.

The permit for use of electric lights was the following slip:—

Privileged to use electric lights in the above-mentioned premises when the entire equipment is in full compliance with the standard of the Philadelphia Board of Fire Underwriters, adopted February 16, 1882, and a certificate is obtained from the inspector of the Insurance Patrol to that effect.

It being understood that no alterations shall be made in the equipment after certificate is issued, without written consent from said inspector of the Insurance Patrol.

Attached to Policy No.....

Next the fire underwriters began to consider the necessity of cancelling policies when the roofs of buildings were crossed by the overhead electric wires, but such position of wires became of necessity rather a matter for regulation than exclusion on the part of the underwriters.

At the annual meeting held March 1, Joseph L. Caven was elected president of the United Firemen's. The two arrested clerks had pleaded guilty to one charge—that of conspiracy. Trial of the ex-assistant secretary had been postponed on account of his sickness. An examination of the company (as part of the general examination of Philadelphia and other companies) had been instituted by the State insurance department—E. W. Peet, examiner. The examiner said that the investigation had been “rendered difficult by the defective system of book-keeping in use until recently, and because certain important books and vouchers could not be produced, and from the incorrectness of the records of liabilities.” In respect to liability under perpetual policies (the register of all ever issued being complete) the examiner reported that—

Separate lists were made of those policies which were marked “cancelled” or “void,” and the policies duly receipted by the owners could not be produced. It was found that there had been marked as “void” and the deposit deducted from the liabilities 508 policies, on the plea that the policies had been rendered void by their terms, either by a change of ownership of the property insured without notice to the company, or for other reasons of like character. After careful examination all such policies were added to the list and the deposit money charged as a liability, except in a few cases where the company was able to produce satisfactory evidence that there was no liability. There were 419 policies thus reinstated. There were also 31 perpetual policies marked off from the register as cancelled which could not be produced or evidence furnished that the money deposited had been returned. There was thus added to the perpetual policies in force 444 policies, increasing the liability of amount reclaimable under this class of policies \$20,015.40.

As per date of December 31, 1881, the assets were appraised at \$580,983.36 (capital, \$200,000), the liabilities apart from the capital stock being \$419,549.82, making the capital impaired \$38,566.46; an assessment on the stockholders was then ordered of two dollars per share on a par of ten dollars (\$40,000), and such being all paid, the funds stood, March 2, 1882, \$5,109.37 in excess of capital stock and all liabilities, and the conclusion at which the examiner arrived was:—

The company's accounts are now kept with accuracy and in accordance with the most approved method. The impairment of capital has been made up by the stockholders and the affairs of the company placed in good condition, and the present management are men of integrity and ability and are determined to keep the company in a sound financial condition.

At a meeting held May 3, the directors of the United Firemen's resolved to increase the capital stock to \$300,000 by the issue of 10,000 shares of new stock at \$15 per share—\$10 for account of capital and \$5 to be passed to the net surplus fund.

April 23, Thomas R. Maris resigned the presidency of the American Fire Insurance Company. Born in the city November 25, 1805, Mr. Maris began his insurance life as a clerk in the office of the Insurance Company of North America, January 29, 1849. He was chosen secretary of the American, April 5, 1855, and January 11, 1860, was elected president, succeeding George



Abbott. When Thomas R. Maris came to the presidency of the American Fire, the assets were \$659,325 and the amount at risk \$11,055,453. When he retired from the presidency, after a service of twenty-two years, the assets were \$1,620,307 and the amount at risk \$52,724,518. Vice-president Thomas H. Montgomery, who like Mr. Maris had entered the American from the Insurance Company of North America, being elected as the successor of President Maris, became the tenth president of this corporation, which, in the years that had gone, had stood at the front of the fire peril, had been always equal to its responsibilities, and in seventy-one years had paid dividends to stockholders equal to 45.9 per cent. of its losses by fire. President Montgomery entered upon his duties with a far different order of experience from that of any of his predecessors. Fire insurance had passed from simpler ways to more complex conditions. His schooling had been broad and varied. He had shared in what had been most notable in fire insurance in the preceding fifteen years. It could be said of him that he had compassed the official programme from routine to ordeal, and been through and throughout the field.

April 28, the London and Provincial, of London, Mather & Co., agents, was licensed to do business in the State. The Hamburg-Magdeburg, Etting & Co., Philadelphia, agents, was withdrawing from the country. This German office wrote in Pennsylvania in 1881 \$1,773,364, received \$20,065 of premiums, and incurred \$20,595 of fire loss.

A policy of the Franklin for \$2,700 applied to two frame two-story houses, separated twelve or fourteen feet, fronting on Broadway, in the borough of Nanticoke, Luzerne county, Pa. Previous to the insurance the owner, John A. Gruver, had leased other portions of the ground belonging to him on each side of the insured buildings, to two parties, each of whom erected a two-story frame building beside the insured buildings, *i. e.*, fronting on Broadway, one of which was twelve and the other fifteen feet distant, so lessening somewhat the compound hazard of each building in a row of adjoining frames of like individual peril, and the fifteen-foot separated building, as so separated, somewhat less jeopardizing its adjacent building than the frame separated by twelve feet jeopardized its adjacent building. Exposure had been a prominent factor of fire loss in all time, but further than this, one of these so erected buildings was occupied as a hotel, the other as a saloon. The four buildings so adjacent were in a block of twenty-one irregularly located buildings. Fire broke out in a building in the block at some distance from these four buildings, and flames communicated to buildings in the rear of Gruver's insured frames, set fire to these, and they were destroyed, the hotel and the saloon not burning. The question, however, as to increase of risk, was of fire peril, not fire occurrence. It is no proof that danger did not exist because the event feared did not happen. A man at whom a loaded pistol is fired is then in danger of his life though the ball does not hit him.

One of the stipulations of the policy was the following; as to the insured, executory:—



If the risk shall be increased from any cause whatever, within the knowledge of the insured during the continuance of the insurance, notice thereof shall be given to the company, and consent to such increased hazard be endorsed hereon, or this policy shall be of no force.

The building of the two structures was known to the agent of the company, but was not reported to the company by him. Suit being instituted, testimony on this point was ruled out at the trial in Court of Common Pleas, Luzerne county; so was expert testimony as to whether the risk was increased by the two additional buildings. In his charge the judge said:—

The main question, then, in this case, is one of fact, and is for the jury exclusively. Was the risk materially increased by the erection of these new buildings? And was it such an increase of risk that the insured was bound to take notice of it himself and notify the company, and procure the required endorsement? In this respect the case is somewhat peculiar. In most of the cases in the books where an increase of risk is a ground of a defence to the payment of a policy, the increase has been effected under the direction and control exclusively of the insured, and has generally been in connection with the very premises insured. Here, however, you observe that the alleged increase of risk and the defence relied upon grows out of the erection of the buildings by other parties than the insured, upon the premises of the latter; the new structures, however, not being owned by him. Therefore the question is a duplex one. Was the risk increased as matter of fact by these new buildings? And was it such an increase that the insured party was bound to take notice of it, and give notice of it to the company and have it endorsed on the policy? This question of increase of risk or hazard does not seem to the court to be one for experts. Therefore the evidence of experts was excluded. It is not, in our opinion, one of those nice scientific or technical inquiries which involves the special knowledge of witnesses engaged in a peculiar profession or calling. The increase of risk must be so clear, manifest and palpable that an ordinary man would take notice of it and be impressed by it. You will observe that the policy does not provide that notice shall be given of new buildings erected within any given distance of the insured property. It does require, however, that notice shall be given to the company of any increase of risk or hazard. Therefore as I said before, the question of fact and the question for you to pass upon, which is decisive of the case is this: Was this risk increased? Was it palpably, clearly and certainly increased? Was it so increased that an ordinarily prudent man would be bound to know it, and thus be bound to bring notice of it home to the company? . . . . .

Verdict and judgment for the plaintiff for \$3,369.58. Upon assignment of error the judgment was affirmed.

Gordon, J.: . . . . . It will be observed that the knowledge of the plaintiff was thus made a material factor in this condition; therefore, proof by experts that, from a technical point of view, the risk was increased, came to nothing. (4 Outerbridge, 266.)

In collating its experience for the ten years prior to 1880, the Royal had ascertained that it had insured frame dwellings in the State at an average premium 30 per cent. too low, and frame stores and their contents 60 per cent. too low.

In May, 1882, the Fire Insurance Secretaries' Association of Philadelphia was organized; having as its object: "To promote sociability among its members, and to secure a general interchange of views on matters pertaining to fire insurance." Meetings were to be held monthly; chairman, George G. Crowell, vice-chairman, Greville E. Fryer, secretary and treasurer, Samuel W. Kay. Such an organization continuously preserving, collating and systematizing the fire insurance data of the locality, could have materially advanced the interests and improved the character of fire underwriting.

In the summer of 1882 the fourth dividend of the Fame in distributing assets and returning capital to stockholders amounted to \$2.50 per share.

Outbreaks of pyrotechny, which had continued for about a century, in commemoration of the Declaration of Independence were disappearing under the efficient enforcement of law, and July 4, 1882, was memorable as an Independence Day with *one* fire, and the cause in this instance not fireworks, but children playing with matches. This summer the police suppressed the sale of a cigar lighter made of a strip of unsized paper, coated with sodium, and kept in a phial. Placing a small clipping of this strip upon the end of a cigar and dampening it with the tongue or otherwise, the yellow flame and intense heat of the burning sodium were produced.

Three trifling fires occurred this year from electric illumination—"two from derangement of wires, one from droppings from a lamp." It had been shown that cotton flyings could rest upon the outside of the glass covering of the incandescent lamp without inflaming, but they would ignite upon a flat metal plate surmounting a globular glass shade over an arc lamp.

As the two centuries from the founding of the city were closing, the Sun, of London, was licensed to do business in the State (December 23, 1882); Charles Platt, Jr., Philadelphia agent. It was "The Sun Fire Office for Insuring Houses, Goods, Wares and Merchandizes from Loss and Damage by Fire," of 1710. It was older than the practice of fire insurance in North America. Its fire risks in the city of London were of greater amount than those of any single American agency company in the whole United States, and such volume of insurance was held in a city having the greatest concentration of value per square yard of ground area of any place on the globe. Its coming to Philadelphia was in something a recalling of the past but in more a pointing towards the future. There was promise as well as history in The Sun of 1710 being neighbor to the Contributionship of 1752. Insurance insures.

Insurance had been so setting up its abiding places within few recent years that the architectural character of Walnut street from Dock to Fifth street was changed thereby. The Spring Garden, the Jefferson, and the Mechanics' had come "down town" to build. The marine-fire Insurance Company of North America was quartered in a new edifice which might serve as type and symbol of the great corporation dwelling therein. The structure of the Union was conspicuous along the line. First among the agencies of foreign offices the façade rose of the Commercial Union, the Royal followed with its white marble front, and the Liverpool and London and Globe was erecting a building of six high stories and 50 by 107 feet in area. A new structure erected by the United Firemen's was ready for its occupancy in December, 1882.

Patrol report of fire losses in 1882 was \$586,666 on buildings, \$1,702,950 on contents, and total fire loss of \$2,284,613; percentage of loss to insurance

applying: on buildings 16.94, on contents 26.15. Of the decade then ended, 1882 was the year of maximum loss, 1877 the year of minimum loss—\$718,625. Mean annual loss for the period was \$1,258,516; proportion of loss to related insurance was 18.74 per cent. in the decade, against 22.90 per cent. in 1882. By twenty-four fires in 1882 the loss was \$1,950,812—average \$81,284. The greatest loss was caused by the burning of a sugar refinery, Delaware avenue and Swanson street. The loss and insurance account of the sugar refinery was as follows:—

	Property loss.	Insurance on property.	Insurance applying to loss.
Eight buildings, . . . . .	\$214,589	\$238,586	\$168,155
Machinery, . . . . .	269,583	307,253	188,253
Stock, . . . . .	458,846	315,092	134,622
	<u>\$943,018</u>	<u>\$860,931</u>	<u>\$491,030</u>

In case of part of the buildings there was a loss of \$213,770, with insurance of \$167,336, and on other buildings there was insurance of \$71,250 with property loss of \$819. On machinery in part, with \$269,583 loss, there was insurance of \$188,253, and upon another portion of machinery there was \$119,000 insurance, with trifling loss. Upon part of the stock, with \$449,726 of loss, there was but \$125,502 insurance, and on another part of the stock, with insurance of \$189,590, there was a property loss of \$9,120.\*

The inspector of the patrol examined 2,960 electric lamps in the year with the wires operating them—1,346 of these were arc lights and 1,614 incandescent.

There were two hundred and eighteen licensed brokers in the city at the close of 1882. Fire risks written in the State in the year by all the joint-stock companies doing business therein amounted to \$578,455,300, an increase of 13.47 per cent. over the amount written in 1874, and the mutual offices had decreased in the amount of their annual writings, with decline of mean amount of insurance in force. So far as the annual insurances did not augment with increased material values in the State, was in part accounted for by the increased issue of long term policies. By the report of the State insurance department, the joint-stock business in Pennsylvania in 1882 was as follows:—

	Fire risks written.	Premiums received.	Losses paid.
Pennsylvania companies, . . . . .	\$195,699,434	\$1,919,468	\$1,043,229
Other-State companies, . . . . .	209,477,318	2,023,863	1,152,519
U. S. branches foreign companies, . . . . .	173,278,548	1,783,619	1,230,320
	<u>\$578,455,300</u>	<u>\$5,726,950</u>	<u>\$3,466,068</u>

Probably about 40 per cent. of this was Philadelphia business.

At the close of 1882 the surviving joint-stock fire insurance companies of Philadelphia exhibited for their whole business the annexed data of premiums and losses with amount of temporary risks in force:—

\* The increasing diversity of the written risk as discriminated from the *property* fire risk, was shown by the three successive editions of C. C. Hine's work on forms of fire policies, *i. e.* the subject *insured* as described and defined by the written terms: First edition 1865, 86 forms; second edition 1870, 139 forms; third edition 1882, 328 forms.



## PHILADELPHIA FIRE INSURANCE COMPANIES—JOINT STOCK.

COMPANIES.	Temporary risks in force, Dec. 31, 1882.	Net premiums received, 1882.	Net losses paid, 1882.	Gross premiums receiv'd from organization to date.	Gross losses paid from organization to date.
American Fire, . . . . .	\$ 54,586,196	\$ 569,473	\$ 332,860	\$ 8,053,585	\$4,970,045
Fire Association, . . . . .	126,905,924	1,468,772	1,087,457	14,201,234	7,089,083
Fire Ins. Co. of County of Phila.,	6,376,565	64,645	37,665	505,981	315,110
Franklin, . . . . .	78,040,569	515,394	366,074	22,447,956	12,458,549
German, . . . . .	2,646,183	18,066	7,784	234,918	94,021
Girard Fire and Marine, . . .	42,014,584	314,535	139,516	5,744,727	2,511,135
Jefferson, . . . . .	1,775,689	15,810	2,495	400,741	128,697
Lumbermen's, . . . . .	6,727,950	69,222	38,107	389,914	145,569
Mechanics', . . . . .	4,804,395	49,901	27,017	429,480	132,552
Pennsylvania, . . . . .	68,849,770	721,811	448,113	10,041,114	6,693,420
Reliance, . . . . .	7,613,448	73,004	22,189	1,603,245	1,017,198
Spring Garden, . . . . .	6,274,841	48,754	27,190	1,712,596	894,215
Sun, . . . . .	1,632,251	15,599	12,511	328,330	227,016
Teutonia, . . . . .	2,130,439	13,182	4,271	. . . . .	68,108
United Firemen's, . . . . .	8,028,473	78,872	80,692	841,535	539,586
Total, . . . . .	\$418,407,277	\$4,037,040	\$2,633,941	\$66,935,356	\$37,284,304

The perpetual fire insurance account of these companies stood as follows for date of December 31, 1882:—

COMPANIES.	Perpetual risks.	Deposits.	Annual interest premium at 5 per cent.
American, . . . . .	\$11,397,402	\$ 300,944	\$15,047
Fire Association, . . . . .	83,846,067	1,876,591	93,830
Fire Insurance Company of County of Philadelphia, .	2,707,483	78,571	3,929
Franklin, . . . . .	58,788,071	1,460,992	73,050
German, . . . . .	2,238,715	54,542	2,727
Girard, . . . . .	4,319,173	122,915	6,146
Jefferson, . . . . .	1,880,578	44,041	2,202
Lumbermen's, . . . . .	5,267,154	136,336	6,817
Mechanics', . . . . .	6,280,820	140,709	7,035
Pennsylvania, . . . . .	18,051,482	473,192	23,660
Reliance, . . . . .	3,940,627	113,118	5,656
Spring Garden, . . . . .	13,718,513	333,042	16,652
Sun, . . . . .	444,820	9,458	473
Teutonia, . . . . .	936,193	22,435	1,122
United Firemen's, . . . . .	13,553,067	335,161	16,758
Total, . . . . .	\$227,370,165	\$5,502,047	\$275,104

Total perpetual risks in Philadelphia companies were:—

15 Joint-stock fire companies, . . . . .	\$227,370,165
4 Fire-marine companies, . . . . .	23,674,598
2 Perpetual offices, . . . . .	23,014,177
1 Assessment mutual, . . . . .	12,400,000*

22

\$286,458,940

\* Approximately.

## PERPETUAL FIRE INSURANCE COMPANIES—NO STOCKHOLDERS.

COMPANIES.	Risks in force, Dec. 31, 1882.	Deposits, Dec. 31, 1882.	Losses paid, 1882.	Interest income, 1882.
Mutual Assurance, . . . . .	\$ 9,669,037	\$260,640	\$15,853	\$ 71,385
Philadelphia Contributionship, . . . . .	13,345,140	473,298	11,798	132,241
Total, . . . . .	\$23,014,177	\$733,938	\$27,651	\$203,626

## ASSESSMENT FIRE INSURANCE COMPANIES.

COMPANIES.	Risks in force, Dec. 31, 1882.	Premium notes rec'd during 1882.	Assessm'ts received during 1882.	Losses paid, 1882.
Fairmount Insurance Association, . . . . .	\$ 46,833	\$1,000	. . . .	\$234
Frankford Mutual, . . . . .	2,012,038	3,107	\$1,233	139
Independent Mutual of Philadelphia and Bucks Counties, . . . . .	5,906,192	. . . .	11,366	12,089
Mutual Fire, Germantown, . . . . .	13,277,421	8,658	*	9,792
Mutual Fire, Philadelphia, . . . . .	1,685,982	11,600	. . . .	5,909
Philadelphia Manufacturers' Mutual, . . . .	1,350,719	. . . .	†	2,100
Universal, . . . . .	484,573	108,537	†	9,319
Total, . . . . .	\$24,763,758	. . . .	. . . .	. . . .

Other-State companies represented in Philadelphia wrote risks, received premiums and paid losses in the State in the year as follows:—

## PHILADELPHIA FIRE AGENCIES—OTHER-STATE COMPANIES.

COMPANIES.	AGENTS.	Penn'a risks written, 1882.	Penn'a premiums received, 1882.	Penn'a losses paid 1882.
Ætna, Hartford, . . . . .	Wm. C. Goodrich.	\$22,280,113	\$223,433	\$102,164
Albany, Albany, N. Y., . . . . .	Samuel D. Hawley.	336,924	3,362	4,280
American, Boston, . . . . .	Charles Platt, Jr.	649,858	4,172	650
American, Newark, . . . . .	Louis Wagner.	1,103,966	7,791	2,219
American Central, St. Louis, . . . . .	Samuel D. Hawley.	1,265,268	14,856	10,992
American, New York, . . . . .	Tattnall Paulding.	1,120,407	8,518	7,876
Atlantic F. & M., Providence, . . . . .	Louis Wagner.	422,860	3,766	647
Buffalo, Buffalo, . . . . .	Thos. Chamberlain.	315,286	3,605	2,677
Buffalo-German, Buffalo, . . . . .	John W. Cheney.	3,191,917	29,566	12,069
Citizens', New York, . . . . .	Samuel D. Hawley.	1,941,851	15,801	11,437
Clinton, New York, . . . . .	Mather & Co.	1,102,747	9,946	13,583
Commerce, Albany, . . . . .	Charles Platt, Jr.	970,933	9,267	6,464
Commercial, New York, . . . . .	Etting & Co.	1,302,724	13,295	10,649
Connecticut, Hartford, . . . . .	Boswell & Co.	6,208,700	67,383	26,703
Continental, New York, . . . . .	Charles Platt, Jr.	8,391,634	82,859	36,627
Dwelling House, Boston, . . . . .	George Esherick.	14,500	80	. . . .
Eliot, Boston, . . . . .	Charles Platt, Jr.	840,554	5,425	6,347
Equitable F. & M., Providence, . . . . .	Louis Wagner.	1,168,643	11,329	3,562
Exchange, New York, . . . . .	David B. Hilt.	712,600	8,377	4,087
Farragut, New York, . . . . .	Samuel R. Hilt.	721,397	6,538	7,288
Firemen's, Dayton, O., . . . . .	James B. Alvord.	598,536	5,935	120

\* Received in the year \$16,323 cash premiums and \$12,647.49 perpetual deposits.

† Cash premiums on mutual policies, \$13,751.17. ‡ Cash premiums, \$16,477.02.

COMPANIES.	AGENTS.	Penn'a risks written, 1882.	Penn'a premiums received, 1882.	Penn'a losses paid 1882.
Firemen's, Newark, . . . . .	W. D. Sherrerd & Co.	\$ 837,914	\$ 5,385	\$ 1,707
Firemen's, New York, . . . . .	A. F. Sabine.	248,516	1,917	1,188
Firemen's Fund, San Francisco, .	J. E. Hyneman.	1,391,697	11,475	8,475
Firemen's, Boston, . . . . .	Charles Platt, Jr.	728,101	5,425	7,292
First National, Worcester, Mass.,	Charles Tredick.	560,939	5,189	3,436
Franklin, Columbus, O., . . . . .	James B. Alvord.	879,155	7,007	5,579
German-American, N. Y., . . . . .	William Arrott.	9,868,432	84,985	42,745
Germania, Newark, . . . . .	Edmund May.	941,417	11,963	3,094
Germania, New York, . . . . .	Prevost & Herring.	8,907,978	20,830	28,233
Glen's Falls, New York, . . . . .	J. E. Hyneman.	2,004,751	17,374	6,113
Guardian, New York, . . . . .	Samuel D. Hawley.	432,054	4,131	2,027
Hanover, New York, . . . . .	J. E. Hyneman.	6,470,291	67,889	35,614
Hartford, Hartford, . . . . .	W. D. Sherrerd & Co.	12,115,915	135,698	93,631
Home, New York, . . . . .	W. D. Sherrerd & Co.	13,111,506	109,738	75,648
Howard, New York, . . . . .	Boswell & Co.	4,417,351	48,965	29,236
Jefferson, New York, . . . . .	Charles Tredick.	382,620	2,064	1,000
Kenton, Covington, Ky., . . . . .	Etting & Co.	1,015,365	13,791	10,199
Kings County, Brooklyn, . . . . .	Alex. W. Wister.	590,305	2,359	239
Lafayette, Brooklyn, . . . . .	W. A. Simpson & Son	691,525	7,671	12,501
Long Island, Brooklyn, . . . . .	John W. Buckman.	488,025	2,783	1,894
Lorillard, New York, . . . . .	Mather & Co.	938,251	7,087	4,850
Manufacturers and Builders', N. Y.,	Madeira & Sons.	728,928	4,966	21
Manufacturers' F. & M., Boston, .	F. O. Allen.	5,261,542	49,015	35,320
Mechanics', Brooklyn, . . . . .	John W. Buckman.	1,166,156	11,842	4,651
Mercantile, Cleveland, O., . . . . .	Madeira & Sons.	254,134	2,607	4,331
Mercantile, New York, . . . . .	T. J. Lancaster.	657,880	4,911	2,353
Mercantile Marine, Boston, . . . .	Henry W. Brown.	1,944,087	19,403	9,852
Merchants', Newark, . . . . .	J. E. Hyneman.	3,108,955	25,270	16,713
Merchants', New York, . . . . .	John W. Buckman.	390,050	2,301	6,143
Merchants', Providence, . . . . .	Louis Wagner.	1,941,585	17,530	2,468
Montauk, Brooklyn, . . . . .	Madeira & Sons.	236,850	1,838	120
National, Hartford, . . . . .	William Arrott.	3,055,128	28,980	16,240
National, New York, . . . . .	Boswell & Co.	1,248,676	11,561	16,143
Newark, Newark, N. J., . . . . .	W. W. Allen.	1,636,255	14,637	10,562
New Hampshire, Manchester, . .	Prevost & Herring.	1,523,077	14,741	12,268
New York Bowery, N. Y., . . . . .	John W. Buckman.	3,135,149	23,288	10,269
Niagara, New York, . . . . .	Henry W. Brown.	6,234,520	64,286	31,479
Northwestern National, Milwaukee,	Samuel D. Hawley.	741,873	6,825	6,853
Ohio, Dayton, O., . . . . .	Charles Tredick.	604,061	7,467	1,911
Orient, Hartford, . . . . .	William Arrott.	3,093,337	30,240	22,734
Pacific, New York, . . . . .	John W. Buckman.	1,180,222	7,560	7,904
Park, New York, . . . . .	R. Emott Hare.	316,237	2,391	595
People's, New York, . . . . .	W. A. Simpson & Son.	983,478	9,674	2,086
Phenix, Brooklyn, . . . . .	Prevost & Herring.	6,072,673	59,484	21,629
Phoenix, Hartford, . . . . .	Boswell & Co.	11,987,386	124,553	71,976
Prescott, Boston, . . . . .	A. T. Newbold.	475,112	5,786	3,382
Providence-Washington, R. I., . .	J. E. Hyneman.	1,541,558	15,138	6,607
Rochester, Rochester, N. Y., . . .	George E. Wagner.	1,537,755	14,710	8,682
Rutgers', New York, . . . . .	John W. Buckman.	902,497	6,114	5,192
St. Paul F. & M., St. Paul, Minn.,	Samuel D. Hawley.	1,649,489	20,629	16,096
Security, New Haven, . . . . .	Alex. W. Wister.	427,558	4,400	2,738
Shoe and Leather, Boston, . . . . .	Charles Platt, Jr.	970,844	7,903	6,888
Springfield F. & M., Mass., . . .	Alex. W. Wister.	6,542,377	80,049	54,461
Standard, New York, . . . . .	Etting & Co.	387,304	2,743	364
Star, New York, . . . . .	Etting & Co.	2,997,948	37,871	22,846
Sterling, New York, . . . . .	Nelson F. Evans.	486,532	3,690	120
Traders', Chicago, . . . . .	W. A. Simpson & Son.	700,302	7,635	8,891
Union, San Francisco, . . . . .	J. E. Hyneman.	874,020	7,535	8,031
United States, New York, . . . . .	Madeira & Sons.	318,188	1,438	
Virginia F. & M., Richmond, . .	Amos T. Newbold.	483,798	4,228	3,762
Washington F. & M., Boston, . .	Charles Platt, Jr.	728,616	5,425	6,685
West Chester, New Rochelle, N. Y.,	John W. Cheney.	2,005,418	15,023	7,255
Williamsburgh City, Brooklyn, . .	Etting & Co.	1,359,402	11,146	15,688



## PENNSYLVANIA STATE COMPANIES—PHILADELPHIA AGENTS.

COMPANIES.	AGENTS.	Pennsylvania fire risks written 1882.
German, Pittsburgh, . . . . .	John W. Buckman.	\$4,340,567
Armenia, Pittsburgh, . . . . .	John W. Buckman.	2,935,017
National, Allegheny, . . . . .	John W. Buckman.	2,196,591
Reading, Reading, . . . . .	J. E. Hyneman.	3,689,645
Teutonia, Allegheny, . . . . .	J. E. Hyneman.	1,525,440
German-American, Pittsburgh, . . . . .	J. E. Hyneman.	2,368,287
Union, Pittsburgh, . . . . .	J. B. Kremer.	1,470,510
Farmers', York, . . . . .	J. B. Kremer.	11,012,510
Boatman's Fire and Marine, Pittsburgh, . . . . .	Amos T. Newbold.	7,198,602
Allemania, Pittsburgh, . . . . .	William C. O'Neill.	5,019,327
Pennsylvania, Pittsburgh, . . . . .	William C. O'Neill.	2,016,245
City, Pittsburgh, . . . . .	William L. Tete.	2,833,197

## FOREIGN COMPANIES—PHILADELPHIA AGENTS.

COMPANIES.	AGENTS.	Penn'a risks written, 1882.	Penn'a premiums received, 1882.	Penn'a losses paid 1882.
British America, Toronto, . . . . .	Charles Platt, Jr.	\$3,715,153	\$40,166	\$35,462
City of London, . . . . .	William Arrott.	2,649,710	27,626	22,154
Commercial Union, London, . . . . .	Tattnall Paulding.	9,436,043	95,496	53,953
Confiance, Paris, . . . . .	R. Emott Hare.	3,176,075	34,055	32,491
Fire Insurance Association, Lon., . . . . .	Tattnall Paulding.	6,794,402	58,918	32,935
General Re-Assurance, Paris, . . . . .	William Arrott.	484,319	4,755	21,876
Guardian Fire and Life, London, . . . . .	Henry W. Brown.	2,443,962	25,439	13,342
Hamburg-Bremen, Hamburg, . . . . .	John Crawford.	3,018,172	31,507	36,603
Imperial, London, . . . . .	Prevost & Herring.	4,658,374	49,355	27,874
Lancashire, Manchester, . . . . .	J. B. Kelsey.	11,742,203	137,846	86,825
Liverpool and London and Globe, Liverpool, . . . . .	Atwood Smith.	18,189,915	180,057	143,417
Lion, London, . . . . .	Samuel D. Hawley.	2,063,680	17,585	25,298
London Assurance, London, . . . . .	Alex. W. Wister.	8,805,510	91,926	60,221
London and Lancashire, Liverpool, London and Provincial, London, . . . . .	George Wood.	7,125,987	86,777	49,586
Métropole, Paris, . . . . .	Charles E. Mather.	2,424,660	27,571	12,869
North British and Mercantile, Lon- don, . . . . .	William Arrott.	2,337,901	28,985	16,878
Northern Assurance, London, . . . . .	W. D. Sherrerd & Co.	10,673,971	104,779	70,727
North German, Hamburg, . . . . .	Prevost & Herring.	3,693,884	36,584	26,615
Norwich Union, Norwich, Eng., . . . . .	Charles E. Mather.	1,438,728	17,612	24,625
Phoenix Assurance, London, . . . . .	R. Emott Hare.	3,806,373	35,577	21,343
Queen, Liverpool, . . . . .	George E. Wagner.	9,452,359	76,949	44,347
Royal, Liverpool, . . . . .	F. Olcott Allen.	13,478,725	163,372	126,658
Scottish Union and National, Edinburgh, . . . . .	George Wood.	22,456,716	249,122	147,266
Standard, London, . . . . .	Samuel D. Hawley.	2,180,775	19,887	13,709
Sun, London, . . . . .	Sprungk & Lange.	8,083,200	34,081	18,263
Transatlantic, Hamburg, . . . . .	Charles Platt, Jr.	2,902,097	28,258	12,337
Western, Toronto, Canada, . . . . .	Charles Tredick.	1,211,071	12,761	7,304
	George E. Wagner.	4,834,584	68,201	45,344

The metropolis of the State was now an aggregation of about 190,000 buildings, three-fourths of which were occupied exclusively as dwelling houses, and the value of buildings and contents was approximately \$900,000,000. These properties were insured to about two-thirds of their

aggregate value, the total insurance being nearly equally divided between temporary and perpetual policies. Fires were occurring per annum at the rate of one for each 700 dwelling houses, involving average loss of \$140 on both buildings and contents fire attacked, and this is to say, that less than 3 per cent. of the annual fire loss of the city resulted from nearly one-third of the total city fires which broke out among three-fourths of the city's total fire-risks. Therefore the 25 per cent. non-dwelling house hazards produced 71 per cent. of the fires and fully 97 per cent. of the loss. Places using machinery represented 5 per cent. of the risks, caused 20 per cent. of the fires, and about 70 per cent. of the loss. The fire department was composed of a chief engineer, five assistant engineers, and four hundred and one men, equipped with thirty-three steam fire-engines with hose carts and 44,100 feet of hose ready for use; also ten hook and ladder trucks.

Ignition not being all averted and combustion not being immediately suppressed along the lines of about 800 miles of paved streets and the unpaved extensions thereof, the daily average fires were two, burning about \$3,500 of material values. By such destruction, if not equal to loss by daily wear and use, there were perishing yearly in the city 14 cents per \$100 of value destructible by fire. Insured property was burning at a much higher ratio than this, and as to the \$150,000,000 of high and highest hazard consumed beyond the rate of 50 cents as insured, the underwriter, without designing to abdicate his functions, was more or less taking part (through the suggestions of schedule rating and the effect of competition reducing rates of premium and increasing expense) in the questions and the measures pertaining to the fixtures, constructions and personal guards proposed to be introduced for the purpose of preventing ignition or suppressing the incipient fire. If the devices could change an extra hazardous risk into a technically non-hazardous one, there was before the fire underwriters more than a new classification of risks. To this seeming transition stage in fire insurance the course of the narrative here ending conducts. It has not been within its purpose to collate the elements of the new problem whose solution waited upon time, experience, test and demonstration.

# PART III.

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LIFE INSURANCE.





# LIFE INSURANCE.

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## CHAPTER I.

*Enactment of Birth and Death Registration in Penn's Code—Grand Pensionary John De Wit's Valuation of Annuities, Four per cent., according to Age Expectations or Chances—English Interest Tables and Discounted Values, 1682—Term Life Risks written by the Personal English Marine Underwriters—John Key and Prospective Philadelphia Mortality—English Government Life Annuities—A Uniform Age Death Force—The Breslau Survivorship Tabulation and its Average Life Measurements—Time Reductions by Death of Annuities Certain—Reversionary Annuities in London—The Barbadoes Distemper—Prohibition of More than Eight per cent. Annual Interest, 1700—Enactment of Six per cent. Annual Interest, 1723—DeMoivre's Hypothesis and Calculations thereupon—Comparison between the Six per cent. Present Value of Single Life Annuities by Breslau Table and De Moivre's Hypothesis—Tables of Life Annuity Values computed by William Gordon, of Boston, 1732—Philadelphia Epidemics—The Bills of Mortality of Christ Church Parish—The Corporation for the Relief of Poor and Distressed Presbyterian Ministers, etc.; its Plan, Rates and Contract. (1682-1761.)*

WILLIAM PENN'S code of laws for the government of the Province of Pennsylvania required that a separate registry of births, marriages, deaths and burials should be kept, as well as of wills and letters of administration. So was enacted a record of the beginning and the end of human life—a life in every instance certain of termination in some term of years, but within the term after the years of childhood, productive and responsible.

Time *limitation* of personal life as a subject or condition of a monetary accounting was in the world in slight degree, and obscurely in its history and tradition, before Penn saw the banks of the Delaware. The States General of Holland had, April 25, 1671, resolved to negotiate funds or loans by means of life annuities, that is by payments in annual instalments of a sum advanced, proportioned to the terminableness of life. This involved the termination of life as a *contingency* resting upon the self-evident certainty that each *year* lived by a person made death one year nearer. Such resolution was confirmed July 30 following, and John De Wit, Grand Pensionary, presented a report to the Assembly on the value of life annuities in proportion to redeemable annuities at 4 per cent. per annum.

In 1682 tables of simple and compound interest were in use in England, and also tables showing what annuities for a fixed term of years a given sum

of money would purchase; the marine underwriters might also give temporary insurance upon the lives of men and women as security for loans with some sort of supposition as to life probability.

So the life annuity, and therefore life insurance, were at their germinal stage when Philadelphia began—the insurance much under ban; the annuity not forbidden, but with little or no evolution of it from Ulpianus to Penn, if not actual retrogression—unless the proposition of John De Wit should be considered as showing development as in progress.

The first native Philadelphian was John Key, born in one of the caves on the banks of the Delaware in 1682. How short or long *his* life\* would be, would have been a prophecy more likely to have been indulged in than any estimate of the average duration of *that* local life he represented. In 1692 the first governmental life annuities were created in England by a proposal to borrow £1,000,000 payable in tontine annuities: first, £100,000 to be paid per annum to the subscriber (10,000 in number of £100 subscription each) with nominees surviving, until 1700; then £70,000 to be paid annually. A table was compiled in connection with this proposition, showing a life decrement yearly of the initial 10,000 nominees in ninety-nine years (1694–1792). Deaths the first year, 1694, were 2.82 per cent. of the living; 1695, 2.84 per cent. of the living. The interest or payment to each £100 contributor, £8 17s. in 1701, advanced to £14 1s. in 1715, with 4,966 nominees alive at end of year—death rate of the year 3.49 per cent. The annual payments to contributors having living nominees yearly increased until 1792, when for the last nominee alive were to be received, by the table, £70,000. Here the question of average life duration or age influence on human vitality was of no account to the annuity granting government. The last survivor was the sole measure of its obligation. “Even on these terms only £881,493 12s. 2d. could be raised”;† and “in the event of the entire million not being so subscribed by a given date, those who did subscribe were to have in lieu of the tontine advantages an annuity of £14 in respect to every £100 subscribed during the remainder of their own or their nominees’ lives.” Tables in use in England at the time as stated showed the worth of £13 10s. 10d. yearly for ten years to be £100 with interest at 6 per cent.

Normally, the motherland supplied the ideas of the colonists, except such as were the growth of their situation. But light was breaking into the darkness lingering from the mediæval ages. Though English government economists but apprehended that, irrespective of age, 10,000 associated persons would die so many in each successive year for ninety-nine years, John De Wit had thought it “not more likely that a [vigorous] man should die in the first half of a given year than in the second half”—ages from 3 or 4 to 53 or 54—and a uniform yearly age death force was a practical convenience in calculations. In 1693 there was published in the Transactions of the Royal Society *An Estimate of the Degrees of Mortality of Mankind* drawn

\* He died in 1767.

† WALFORD: *The Insurance Cyclopædia*, 1; 104.



from Curious Tables of the Births and Funerals of the City of Breslau; with an Attempt to Ascertain the Price of Annuities upon Lives, by E. Halley, F.R.S. The registers of the Silesian city used were for the five years 1687-91;—6,193 births, 5,869 deaths. The “degrees” were the survivorships of ages deduced by arrangement of data and not constructed as a probability formulation. Of 1,000 births, 145 died in the first year, 57 in the second year, etc., the tabulation ending with age 84 and 20 alive—one-half of the births or persons dying by the end of the thirty-third year. This was to say, that at the beginning of age one there was an equal chance of living or dying in thirty-three completed years. So, as exemplification, Dr. Halley said:—

A person of 30 years of age is proposed, the number of that age is 531, the half thereof is 265, which number I find between 57 and 58 years, so that a man of 30 years may reasonably expect to live between 27 and 28 years.

A *particular* man of 30 years might as reasonably expect to die within 28 years, but *men one with another* would realize such life continuance as an average.

Giving this survivorship from the beginning of age 30 to the end of age 34, viz.:—

Age.	Living.
30, . . . . .	531
31, . . . . .	523
32, . . . . .	515
33, . . . . .	507
34, . . . . .	499

the 531 persons live as a whole in the five years which elapse 4.8 years, approximately.

Money receivable yearly for a fixed term of years being purchasable for a present sum, such present sum was reducible by the rate of death occurrence if the contingency of death were introduced.

Money being worth for use, say 5 per cent. per annum, £100, payable unconditionally, in twelve months, were worth  $\frac{100}{1.05}$  or £95.23; but if payment were conditioned upon the continuance of a life, age 30, the £95.23 would be reduced by  $\frac{523}{531}$  to £93.80.

The rational construction of the life annuity and by consequence the life insurance premium was thus inaugurated, but the rational practice was yet to begin. In 1698 The Mercers' Company, of London, offered to grant annuities to widows of members at the rate £3 for every £10 paid in.\* This was a problem as to whether the £10 paid in would amount by compound interest to the sum requisite when the annuity in reversion became payable. Dr. Halley had calculated the present value of a life annuity of £3 beginning at age 40, and 6 per cent. interest at £31.71; beginning at age 70, £15.96. Rev. William Assheton was named as the suggester of the Mercers' Company. He also originated about the same time The Society of Assurances for Widows and Orphans, “for the Benefit of the Widows of Clergymen and others and for settling of Jointures and Annuities.”

\* Married men under 30 were allowed, as arranged, a subscription of £100, under 40 £500, under 60 £300.

In 1699 an epidemic called the Barbadoes distemper broke out in Philadelphia; number of deaths reported therefrom was 220, or 5.5 per cent. of a population estimated at 4,000. If the death rate in Philadelphia was 2 per cent. otherwise, there would have been 75 deaths per 1,000 of population in 1699.

With the commercial state of Penn's province, in its incipient stage, the value of money for use—*i. e.*, as it may be valued—was scarcely determinable in the first score of years. Rates of interest were high, as the demands for capital were necessarily great, and high current interest rates would rather deter than induce the practice of life annuities, of which interest rate is a fundamental factor. An act of the General Assembly passed in 1700 seems by its title to have been designed to supply the absence of any legislative regulation of the subject, though its terms were simply prohibitory, with penalty for any rate above 8 per cent., *viz.*:—

An Act for Regulating the Interest of Money.

For prevention of extortion in Usurers, and the extortion of immoderate Interest for Money in this Province and counties annexed.

Be it Enacted by the proprietary and Governor, by and with the advice and consent of the Freemen of the said Province and territories in General Assembly met, and by the Authority of the same: That no person shall directly or indirectly take for the Loan or use of Money or any other Commodities, above the value of Eight Pounds for the forbearance of One hundred pounds, or its value for one year, and so proportionally for a greater or less sum. And whosoever shall be proved to have received or taken more than as aforesaid shall Forfeit the Money and other things lent, one-half to the use of the proprietary and Governor, and the other half to the informer.

This law was repealed February 7, 1705, but there is no record known of the repealing act or clause. After the elapse of eighteen more years the annual rate of interest was reduced to 6 per cent. by this enactment:—

An Act for reducing the interest of money from eight to six per cent. per annum.

*Be it enacted*, That no person shall, directly or indirectly, for any bonds or contracts to be made after the publication of this act, take for the loan or use of money, or any other commodities, above the value of six pounds for the forbearance of One hundred pounds, or the value thereof, for one year, and so proportionably for a greater or lesser sum, any law, custom or usage, to the contrary notwithstanding.

II. *And be it further enacted*, That if any person or persons whatsoever do or shall, after the publication of this act, receive or take more than six pounds *per cent per annum*, on any such bond or contract as aforesaid upon conviction thereof, the person or persons so offending shall forfeit the money and other things lent, one-half thereof to the Governor, for the support of government, and the other half to the person who shall sue for the same, by action of debt, bill, plaint or information, in any court of record within this province, wherein no essoin, protection, or wager of law, or any more than one imparlance, shall be allowed. (Passed March 2, 1723.)

Abraham De Moivre, after previously writing in London on the doctrine of chances, and on reimbursing and paying off annuities, published in 1725 his treatise on Annuities upon Lives, or the Valuation of Annuities upon any Number of Lives, as also of Reversions. To which is added an Appendix concerning Expectations of Life and Probabilities of Survivorship. This itself indicated something of the investigating and the calculating as they had advanced after the publication of Dr. Halley's table, but in the practice there was no advance. The Amicable Society for a Perpetual Assurance office had begun in 1706 essentially upon the principle to take no risk, *i. e.*, no share in



probability. In a particular year a named sum was to be divided among the beneficiaries of those dying in the year, the amount being secured by the prepaid contributions without any age rating, and persons in good health admitted as members between the ages of 12 and 45. De Moivre worked upon a rule or hypothesis assuming 86 years as the maximum age and half of the difference between a given age and 86 as the probable life duration. Further:—

(2). Let it be required to find the joint Expectations of Two equal Lives, the Rule will be to take one third of the Difference between their common Age and 86; thus if Two Lives be each of them 50, it may be expected that both of them together may continue in Being during an interval of 12 years; and if the number of equal Lives be Three, Four or Five, &c., then the time due to their joint Continuance is respectively expressible by  $\frac{1}{4}$ ,  $\frac{1}{5}$ ,  $\frac{1}{6}$  of the Difference between their common Age and 86. (3). If there be ever so many equal Lives, then the Time due to the longest of them, that is the Time due to that Life which survives all the rest, may also be determined; for if there be Two, Three or Four equal Lives, then  $\frac{2}{3}$ ,  $\frac{3}{4}$ ,  $\frac{4}{5}$ , &c., of the difference between their common Age and 86 will respectively express the Duration required.\*

\* To illustrate, as to single life, Problem 1 of the treatise may be cited, *i. e.* the finding of the value of an annuity upon a single life decreasing in age probability in the arithmetical progression of the hypothesis:—

*Solution.*—Let  $r$  be the Rent;  $i$  the Rate of Interest, that is the Interest of one Pound joined with its principal;  $n$  the number of Years comprehended between the Term given and the last Term in which the Probability of Life is supposed to be extinguished: Let also  $P$  be present Value of an Annuity certain for the given number of years.

This being supposed, the Value of an Annuity upon such a Life will be  $\frac{1 - \frac{r}{n}P}{r - i}$ , which may be thus expressed in Words at Length,

Take the Value of an Annuity certain, for so many Years as are intercepted between the Age given, and the utmost Term of Life supposed to be at Eighty Six compleat; multiply this Value by the Rate of Interest and divide the product by the Number of Years belonging to the Annuity; let the Quotient be subtracted from Unity, and let the Remainder be divided by the Interest of one Pound: This last Quotient will express the Value of an Annuity for the Life given.

Thus, suppose it were required to find the present Value of an Annuity of one Pound for a Life of Fifty, Interest being at 5 per cent.

The Number of Years intercepted between Fifty and Eighty Six is Thirty Six; therefore let the Value of an Annuity certain for Thirty Six Years be taken out of the Tables of Annuities; this Value will be found to be 16.5468.

Let this be multiplied by 1.05 Rate of Interest, the Product will be 17.3741.

Let this Product be divided by the Number of Years, *viz* by 36; the Quotient will be 0.4826.

Subtract this quotient from 1 the remainder will be 0.5174.

Lastly, divide this Quotient [remainder] by the Interest of one Pound, *viz*, 0.05, and the new Quotient, *viz*, 10.34 will be the Value of an Annuity of one Pound for a Life of Fifty.

DEMONSTRATION. Since, by Hypothesis, the Probabilities of Life decrease in Arithmetic Progression, it follows that they may be represented by the following Series

$$\frac{n-1}{n}, \frac{n-2}{n}, \frac{n-3}{n}, \frac{n-4}{n}, \dots \frac{n-n}{n},$$

whose Terms being severally divided by the Terms of the Geometric Progression,  $r, rr, r^2, r^3$ , &c, the new Series resulting from these Divisions, *viz*,

$$\frac{n-1}{n r}, \frac{n-2}{n r r}, \frac{n-3}{n r^2}, \frac{n-4}{n r^3}, \dots \frac{n-n}{n r^n},$$

will express the Value of all the Rents to be received yearly, and estimated in present Money; and consequently the Sum of the Terms of this Series is the present Value of the Annuity required.

But in order to find the Sum of all these Terms, it is to be observed that the Series which they compose may be divided into two other Series *viz*,

$$\begin{aligned} & \frac{1}{r} + \frac{1}{r r} + \frac{1}{r^2} + \frac{1}{r^3} + \dots + \frac{1}{r^n} \\ & \frac{1}{n r} + \frac{2}{n r r} + \frac{3}{n r^2} + \frac{4}{n r^3} + \dots + \frac{n}{n r^n} \end{aligned}$$

whereof the Second is to be subtracted from the First.

The Sum of the first Series may be look'd upon as given, being an Annuity certain for a Number of Years expressed by  $n$ , and may either be derived from Tables exhibiting the Values of Annuities for any Term of Years, and a given Interest, or be readily calculated by the known Method of summing up the



At 6 per cent. the values of annuities (years' purchase) as between Dr. Halley and De Moivre compared as follows at 6 per cent.:—

Age.	Breslau Table	De Moivre's Hypothesis.
20, . . . . .	12.78	12.30
30, . . . . .	11.72	11.61
40, . . . . .	10.57	10.70
50, . . . . .	9.21	9.49
60, . . . . .	7.60	7.83
70, . . . . .	5.32	5.50*

Of the diseases in Philadelphia, small-pox was the recurring epidemic. The Palatine "distemper," introduced, as supposed, by the Palatines, came in

Terms of a *Geometric Progression*; this Sum being contained in the short Expression  $\frac{1 - \frac{1}{r^n}}{r - 1}$  which we may suppose equal to P.

The Method of calculating the Sum of the Second Series is not so vulgarly known, but it may be derived from a general *Theorem* in the *Doctrine of Chances*, pag. 132, which shows it to be  $P + \frac{r}{n} P - \frac{1}{r - 1}$

Wherefore we may conclude that the present Value of the *Annuity* required is  $\frac{1 - \frac{r}{n} P}{r - 1}$ .

\* De Moivre's computations did not altogether fail in commanding early attention in the English North American colonies. William Gordon issued in Boston, in 1732, "The Plan of a Society for making Provision for Widows by Annuities for the remainder of Life, and for granting annuities to persons after certain ages, with the proper tables for calculating what must be paid by the several members in order to secure the said advantages." Gordon's tables were computed at 4, 4½, and 5 per cent., and embraced:—

TABLE I.—*Showing what a person must pay in purchase of a £20 annuity, to be enjoyed in case of survivorship by another for life; the latter not being younger than the former.*

TABLE II.—*Showing what a purchaser must pay, more than in the preceding table, upon every year he is older than the intended annuity receiver, supposing interest to be at 4½ per cent.*

TABLE III.—*Showing what annuity the purchaser may become entitled to after a certain period, for the remainder of life, upon a given sum.*

TABLE IV.—*Showing what the purchaser must give down besides making a payment annually of £5 till he becomes entitled to the annuity.*

De Moivre's Hypothesis was employed by Mr. Gordon to supply the fractions to reduce the time value of money to certain life values; that is, to change calendar times of interest to fixed life periodicities. (The probability of the joint existence of two lives is the product of the two single fractions denoting the respective single life probabilities, probability being a fraction of unity or certainty. Then by De Moivre to find the annuity value of two lives during their *joint* continuance multiply together the values of the single lives and the rate of interest for the numerator of a fraction; for the denominator add unity to the value of each single life and multiply, then from this product subtract the numerator found. The improper fraction resulting was the value of the annuity sought. To find the value of an annuity upon the longer of two lives subtract the value of the two joint lives from the sum of the values of the single lives. The value of the reversion of one life after another was the remainder after the subtraction of the value of the life in possession from the value of the two lives.)

Table No. 1 (survivorship) was: A. Single payment. B. "When there is an annual payment of £5 subject to failure on either of their deaths." C. "Would he secure an additional £10, so as to make the annuity £30 upon living ten years after admission, and paying annually £5 as before, he must add to the sum in the immediately preceding columns." [B.]

This table was at 4, 4½, and 5 per cent. for ages 21, 25, and the after quinquennial years to 60. The computations for the first and last ages, and also 35, were:—

## I.

	A.			B.			C.		
	4	4½	5	4	4½	5	4	4½	5
Age 21, . . . . .	71.	62.13	56.12	4.17	. . .	. . .	18.2	15.4	10.4
35, . . . . .	68.19	62.4	56.19	11.6	6.17	4.	15.8	13.10	12.
60, . . . . .	53.6	50.7	47.15	16.11	14.9	12.15	5.12	5.4	4.6

The computer's explanation is in his own terms:—

"Table I.—From the above table it appears, that, money yielding an uninterrupted compound interest of 4½ the person of 35, in order to secure an annuity of 20*l.* for the life of another of same

1741, causing 505 deaths—total population about 12,000; deaths from all diseases, etc., 745. A throat affection, called by Dr. John Kearsley, *Angina maligna*, was predominant in 1746. This quinsy or diphtheria, popularly described as “putrid sore throat,” spread over a wide territory, but its fatality does not appear to have been recorded, though there were reports of extraordinarily high mortality. The doctors did the amount of phlebotomy and

age, in case of survivorship must give in present payment 62*l.* 4*s.* but should he chuse to make an annual payment of 5*l.* subject to a failure at his own death or that of the intended annuity receiver, then he will have to pay down only 6*l.* 17*s.* the value of such annual payment being the difference between 62*l.* 4*s.* and 6*l.* 17*s.* or 55*l.* 7*s.* But would he secure an additional 10*l.* so making the annuity 30*l.* in case he should live 10 years after admission, besides the annual payment of 5*l.* he must pay down 13*l.* 10*s.* more than the 6*l.* 17*s.* or in all 20*l.* 7*s.* Does he prefer paying at once the whole value of the increasing annuity, he must to 62*l.* 4*s.* add 13*l.* 10*s.* that being the worth of an additional 10*l.* annuity after 10 years.”

“A member may be admitted to secure a 10*l.* annuity after 10 years when he is 35 years old, to one of the like age in case of survivorship, on his paying down only 13*l.* 10*s.* or a 20*l.* annuity after the said term of 10 years on paying 27*l.* but in this case should he die *before* the 10 years, the intended annuity receiver reaps no benefit from what has been paid, which goes to the use of the Society.”

Table II was the effect of the seniority of the purchaser upon the values of I, as cast upon 4½ per cent. interest. Ages of the purchaser were quinquennial from 21, 25 to 60, of the annuitant 15 to 55. Age differences of the joint-lives ranged from 15–20 to 20–60. Citing five of the thirty different age associations given, there are shown the following additions to the 4½ per cent. columns of I for every year the purchaser was older than the intended annuitant:—

## II.

Age of Purchaser.	Age of Annuitant.	A.			B.			C.		
		£.	s.	d.	£.	s.	d.	£.	s.	d.
21, . . . . .	15	0	18	0	0	12	0	1	0	0
35, . . . . .	30	1	7	0	1	1	0	1	10	6
35, . . . . .	15	1	4	6	1	0	0	1	8	6
60, . . . . .	55	2	18	0	2	10	0	3	4	0
60, . . . . .	20	2	6	0	2	2	6	2	15	6

Even De Moivre failed, with a revision of his hypothesis, to adapt it to joint-lives.

Table III was for deferred annuities on a given single life. As, for example, for £20 annuity:—

## III.

	Annuity deferred to Age	SINGLE PAYMENT.		
		4	4½	5
Age 25, . . . . .	45	75.11	65.4	56.9
30, . . . . .	45	100.3	88.11	78.9
35, . . . . .	50	88.18	78.19	70.5
40, . . . . .	55	86.14	78.2	70.10
50, . . . . .	60	87.19	80.17	74.7

Table IV was a single payment with £5 annually during the deferred period—annuity being £20.

## IV.

	Annuity deferred to Age	SINGLE PAYMENT.		
		4	4½	5
Age 25, . . . . .	45	17.17	9.17	3.4
30, . . . . .	45	51.15	41.15	33.2
35, . . . . .	50	41.4	32.16	25.11
40, . . . . .	55	29.17	23.2	17.5
50, . . . . .	60	53.4	46.18	41.4

mercurial administration in vogue. The designation Yellow Fever was applied to some one form or another of highly fatal endemic febrile disease. A single leaf bill of mortality and birth appeared in 1748. It was entitled *An Account of the Births and Burials in Christ Church Parish, in Philadelphia, from December 24, 1746, to December 24, 1747*, by Caleb Cash, Clerk, and Charles Hughes, Sexton. Such report was continued yearly. In 1754 the Palatine emigrants again suffered from a peculiar fever, and of their number in Philadelphia 253 died. Small-pox was prevalent in 1756. Lady Mary Wortley Montagu had introduced inoculation with the virus of the pustule in England in 1718, and now the disease was "dangerous to all but the inoculated."

With the appointment unto all men "once to die," payments according to the death contingency were slowly evolved in the city, yet the world elsewhere was also lagging. But in 1759 the Presbyterian Synods of New York and Philadelphia, on previous application of the Synod of Philadelphia, procured a charter from the proprietary government of Pennsylvania, of date of January 1, of that year, of a Corporation for the Relief of Poor and Distressed Presbyterian Ministers, and of the Poor and Distressed Widows and Children of Presbyterian Ministers.\* The title was that of a beneficial or charitable organization, but the project contained life annuity elements.

A fund had existed in aid of the partially supported clergy, and the ministry had expressed a wish that, by some fund, like payments could be guaranteed to their surviving wives and children.

Donations were received to start such a guaranty fund from both Great Britain and America, and a method of annual contributions as purchase of survivorship annuities devised, which was as follows:—

The PLAN OF AGREEMENT between the CORPORATION for the Relief of poor and distressed *Presbyterian* Ministers, and of the poor and distressed Widows and Children of *Presbyterian* Ministers; and the Annual Contributors,

[*That is to say*]

- I. THAT the yearly Rates of the Contributors be two Pounds, three Pounds, four Pounds, five Pounds, six Pounds or seven Pounds, current Money of PENNSYLVANIA; and that the respective Annuities to be paid to the Widows and Children of the Contributors, be ten Pounds, fifteen Pounds, twenty Pounds, twenty-five Pounds, thirty Pounds or thirty-five Pounds; and that no Alteration be ever after made in the Rates, but that every Contributor abide by the Rate which he first chuses.
- II. THAT no Person shall at any Time be entitled to an Annuity, until one full Year after the Father's or Husband's Decease.
- III. THAT no Annuity be transferable, or liable to be sold; in as much as that Practice would frustrate the very End of the Charter, and of the pious Contributions for this Purpose.
- IV. THAT if any Contributor shall die before he has paid to the Support of this Fund, a Sum equal to three Years Annuity, in that Case there shall be deducted from the Annuity due to his Widow or Children, such a Sum as together with the Rates already paid or due by him (without computing Interest thereon) shall make or be equal to three Years Annuity: PROVIDED ALWAYS, That such Deduction shall be made by retaining only one Half of the Annuity until said Deficiency be made good to the Fund.

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\* The original corporators were: "The Reverend Robert Cross, the Reverend Francis Alison, William Allen, Esquire, the Reverend Gilbert Tennent, the Reverend Richard Treat, the Reverend Samuel Finley, Mr. Alexander Huston, Mr. William McIlvaine, Mr. John Mease, Mr. John Bleakly, Mr. Thomas Bourne and Mr. Andrew Read."



- V. THAT every Contributor at his Marriage, and as often as that happens, shall pay one Year's Rate extraordinary, as he thereby makes the Chance worse, by bringing, in general, a younger Widow upon the Fund.
- VI. THAT every Congregation whose Minister or Pastor has been a Contributor to this Fund, shall after his Death be supplied by the neighbouring Ministers in their Turns, a certain Number of Sabbaths, until the Contributions given by these Congregations for these Supplies, be equal to the middle Rate subscribed to this Fund; and these Contributions shall be paid into the Fund that Year in which the Minister dies, and every Year after, while the Congregation is vacant, or until it be dissolved; so that the Fund may not suffer by vacant Congregations.
- VII. THAT if any Contributor remove to a distant Country or Province, or resign his Office, or be deposed, or suspended, in that Case, and in every such Case that may happen, provided that he pay his yearly Rate or Quota, he shall be regarded as a Member, and his Widow and Children be entitled to their Annuity.
- VIII. THAT the Contributor's Widow, if there be no Children, shall be entitled to her whole Annuity during her Widowhood, but to no more than Half the Annuity after her marriage, during her natural Life.
- IX. THAT if there be a Child, or Children, and no Widow, it, or they, shall be entitled to the whole Annuity for thirteen Years after the Father's Decease, and no longer.
- X. THAT if there be a Widow and a Child, or Children, the Annuity shall be divided among them as the Corporation shall judge most for their Relief: PROVIDED ALWAYS, That the Widow be allowed as much, at least, as any of the Children. But if she marry before she is thirteen Years a Widow, she shall have one-Third, and the Child or Children two Thirds for thirteen Years, to be counted from the Death of her Husband; and she shall after that Term, have Half the Annuity during her natural Life: But if all the Children die before the thirteen Years are expired, the Widow, if unmarried, shall have the whole Annuity during her Widowhood, and only half Annuity after her Marriage.
- XI. THAT the Corporation may pay the Child or Children of deceased Contributors, such a Sum in Hand as will be equal to his or their Annuity, if the Corporation judge it most for his or their Benefit, deducting the legal Interest according to the Number of Years they are obliged to pay the Annuities, or in proportion to the Chances against his or their life.
- XII. THAT the first annual Payment of the Contributions into the Fund, shall commence from the ——— Day of May in the Year of our Lord, One Thousand Seven Hundred and ——— and that the first annual Payment of Annuities be on the ——— Day of ——— in the Year of our Lord, One Thousand Seven Hundred and Sixty-two, if any are then become due: And that every succeeding Payment shall be made on the Same Day of each Succeeding Year.
- XIII. THAT if at any Time the Rates and Interest of the Fund be not sufficient to pay the Annuities, the Treasurer shall not break on the Capital, until he lay the Affair before the Corporation and the Synod of NEW YORK and PHILADELPHIA, at their first Meeting after this may happen.
- XIV. THAT as soon as a Capital can be raised sufficient to enable the Corporation to pay the Annuitants the yearly sums stipulated in this Agreement, with all necessary Charges, then the Interest or Surplusage, or Part of it, shall be divided among the Annuitants, and other distressed Ministers and their Widows and Families, in such Manner as the Corporation think proper: PROVIDED ALWAYS, That particular Regard be had to Contributors, so that their Widows and Children be entitled to a Share in said Surplusage in Proportion to the Sums paid by their Husbands and Fathers.
- XV. THAT the Names of all the Contributors to this Fund, shall be inserted in the Corporation's Book; and that their Widows or Children, or both, if Need require, shall produce a Certificate yearly, from the Moderator of the Presbytery next adjacent where it can be procured, or from some other suitable Authority, such as two Magistrates nearest to them, testifying their State and Condition as the Widow and Children of such a Minister, at such a Time deceased; which Certificate shall be laid before the Corporation, and if by them approved, shall be sent to the Treasurer, who shall in all such Cases be warranted to pay such Annuity or Annuities.
- XVI. THAT the Corporation shall and may, With the Advice of the Contributors, make such Alterations in this Plan, from Time to Time, as shall be for the Benefit of the Fund and Contributors, the Rates first chosen excepted.

Philadelphia, ——— the ——— 17—

Signed, on the one Part, in the Name and by Order of the Corporation, by ———

. . . . . And on the other Part by ———

## CONTRACT.

Province of Pennsylvania, ss.

THIS INDENTURE made this \_\_\_\_\_ day of \_\_\_\_\_ in the Year of our Lord, one Thousand seven Hundred and \_\_\_\_\_ BETWEEN \_\_\_\_\_ of \_\_\_\_\_ in the County of \_\_\_\_\_ Minister of the Gospel, of the one Part, and the CORPORATION for Relief of poor and distressed Presbyterian Ministers, and of the poor and distressed Widows and Children of Presbyterian Ministers, of the other Part:

WITNESSETH, That the said \_\_\_\_\_ for and in Consideration of the Covenants and Agreements herein-after mentioned, on the Part and Behalf of the said Corporation, to be kept, performed and fulfilled, and of the Benefits and Advantages thereby to arise and accrue to the Widow and Children of the said \_\_\_\_\_ after his Decease; and for divers other good Considerations him thereto moving, doth covenant, promise, grant, and agree to and with the said Corporation for the Relief of poor and distressed Presbyterian Ministers, and of the poor and distressed Widows and Children of Presbyterian Ministers, by these Presents, in Manner and Form following, That is to say, THAT he the said \_\_\_\_\_ shall and will during the Term of his natural Life, yearly, and every Year, pay, or cause to be paid on the \_\_\_\_\_ Day of \_\_\_\_\_ in each Year, the Annuity or Sum of \_\_\_\_\_ current Money of the PROVINCE of PENNSYLVANIA, to the said Corporation and their Successors, or their Order: Whereof the first Payment was made on the \_\_\_\_\_ Day of \_\_\_\_\_ And further, That on the Marriage of the said \_\_\_\_\_ and as often as he shall marry, the said \_\_\_\_\_ shall and will on every such Marriage, pay, or cause to be paid unto the said Corporation, and their Successors, the Sum of \_\_\_\_\_ Pounds over and above the said Annuity. And the said Corporation, for themselves and their Successors, do covenant, promise, grant, and agree to and with the said \_\_\_\_\_ his Heirs, Executors and Administrators, by these Presents, That if the said \_\_\_\_\_ shall well and faithfully fulfil and perform his Covenant aforesaid, by paying, or causing to be paid yearly and every Year, at the Day and Times abovementioned during his natural Life, the said Annuity or Sum of \_\_\_\_\_ to the said Corporation, their Successors, or Order, according to the true Intent and Meaning of these Presents; then, and in such Case, but not otherwise, the said Corporation and their Successors, shall and will yearly and every Year from and after the Decease of the said \_\_\_\_\_ well and truly pay, or cause to be paid to the Widow and Children, or Widow, or Children, (if any) of the said \_\_\_\_\_ the Annuity or Sum of \_\_\_\_\_ current Money aforesaid, during the Term, in the Proportions, and in the Manner and Form as is expressed and particularly mentioned and set forth in a Plan of Agreement between said Corporation, and the annual Contributors, which for this Purpose is to these Presents annexed.

*In Witness whereof*, The Corporation for Relief of poor and distressed Presbyterian Ministers, and of the poor and distressed Widows and Children of Presbyterian Ministers, HAVE put their common SEAL TO THESE PRESENTS, the Day and Year first above-written.

## CHAPTER II.

*Life Insurance Practice and Computations in 1762—Reversions as in Philadelphia—The Corporation for the Relief of the Widows and Orphans of Episcopal Clergymen—The Quintuple Survivorship Annuities of the Same—Annual Payments as Purchases of Reversionary Values—Epidemic Mortality—Effects of the Revolutionary War upon the Episcopal and Presbyterian Corporations—The Presbyterian Corporation considers "How the Rates and Annuities are to be paid"—An Effort to revive the Inoperative Episcopal Corporation—The Presbyterian Corporation continues—Its Affairs in 1792—The Bond of its Contributors in 1794—Its Indenture—Its Present Values and Quintuple Annuities—Its Use of De Moivre's Hypothesis—The Yellow Fever Mortality in 1793—General Mortality in the City, 1791-1795—The Personal Death Risk as occasionally accepted by Personal Marine Underwriters—A Non-Annuity Policy on Life executed in Boston in 1790—The Death Risk considered from the Marine Insurance Standpoint—The Insurance Company of North America proposes to try the Practicability of insuring against the Contingency of Death—Some Early Marine Life Insurance Rates—First Policy of the Insurance Company of North America upon the Death Risk—Non-Voyage Life Policy of the London Assurance Corporation, 1721—The Life Assumption of the Policies. (1762-1796.)*

THE Society for Equitable Assurances on Lives and Survivorships began in London in 1762 the practice of monetary payments under life contingencies in accordance with systematic calculations; and there then began to be unison between the computers and the practitioners. What practice there had been was without technical knowledge, yet not devoid of keen intuitions. Net premiums of the Equitable were based upon the London Bills of Mortality\* and were loaded 15 per cent. for expenses. So the Equitable advanced to a practice assigning a present value to £1, payable at death of a person of a given age, and a present value of £1 payable yearly by the person to the Society.

It was yet early in Philadelphia for the calculation of reversions, but in addition to the existing survivorship annuity organization, February 7, 1769, the Corporation for the Relief of the Widows and Children of Clergymen in the Communion of the Church of England in America was chartered by the Proprietaries of the Province of Pennsylvania. The same persons were incorporated by the Provinces of Pennsylvania, New Jersey, and New York, respectively. Its plan, the crude idea of an annuity five times the amount of single annual payment, was derived from the earlier Presbyterian Corporation. By the Fundamental Laws of October 10, 1769, the Corporation embraced the "principle of contract and bounty."† By the contract, the contributors paid \$8, \$16, or \$24 yearly during life, one or another amount, for the purchase of a \$40, \$80, or \$120 annuity for widow or children; the Corporation having

\* The first table deduced from these mortality returns was by Thomas Simpson—data 1728 to 1737.

† Preface to Fundamental By-laws, etc., by Horace Binney; Philadelphia, 1851.



power to increase the rates of annuities as the state of the funds should admit. The Corporation "stipulated to give relief to his [the contributing clergyman's] surviving widow and children, and to either, if there were not both descriptions of survivors, according to one uniform rule. The clergyman was bound to make his payment regularly in each year *during his life*, and to make fifteen annual contributions certainly [equivalent to "three Years Annuity"], to entitle his widow and children to the largest rate of relief, namely, if he left a widow only, to an annuity of fivefold the amount of the annual payment during her widowhood, and if she married again, to one-half of the quintuple annuity for her life; if he left both widow and children, the annuity was divided between them, one-third to the widow, as aforesaid, and two-thirds of it to the children for thirteen years; if he left a widow and one child, the annuity was divided between the widow and child, one-half to the widow, as aforesaid, and the other half to the child for thirteen years; and if he left a child or children and no widow, the child or children took the whole annuity for the term of thirteen years. If the clergyman paid any number less than five annual contributions, his widow and children were entitled only to 10 per cent. per annum on the amount of his contributions, for thirteen years; and if he paid five or more, and less than fifteen annual contributions, they were entitled to only half the amount of the full annuity, until the amount of the half retained by the Corporation, added to the five or more payments made by the deceased, without computing interest, should together make the sum equal to fifteen annual payments, at which time the full annuity became payable."\*

In addition to the contributors' funds, the receipts were to be enhanced by such benefactions as might be given by charitable and well-disposed persons: The payments to annuitants increasing the contract amounts being derived both from benefactions and surplus product of the funds have been classed by Mr. Binney under the head of Bounty. It has been asserted that the opinion of Dr. Price, given to Dr. Franklin, was, in substance, that if the scheme was largely resorted to by the clergy, the Corporation would be compelled to seek charitable aid to fulfil its contracts. How the greater resort to the scheme could affect its inherent character, is not very clear. Dr. Price had just computed his London table, certainly showing, *if realized*, a good chance for a society rating irrespective of age as to immediate annuities, and still better for deferred annuities. By Dr. Price's augmenting vitality-tabulations, with husband age 30, wife 25, the present value of an absolute survivorship annuity of \$40 upon the life of the latter was about \$122 † (about \$11 annual payments)—interest 5 per cent., but this value was reduced by the condition of fifteen certain annual payments preceding the annuity. The present value, however, of \$8 per annum certain for fifteen years discounted at 5 per cent. is but \$83.04, and the present value of \$8 per annum on a life aged 30, interest 5 per cent., was less than \$122 as the life probability was figured. In the case of four annual \$8 rate payments, amounting to \$36.24 at 5 per cent., the thirteen annuity payments of \$3.20 each would amount to \$41.60, and annuity pay-

\* Preface to Fundamental By-laws, etc., by Horace Binney; Philadelphia, 1851.

† Value of annuity, age 25, less value of annuity upon joint lives, ages 25 and 30.

ment with decreasing annual interest receipt would not exhaust the decreasing principal, etc., *i. e.* the present value of \$3.20 annuity certain for thirteen years would be \$30.04. There were a number of favorable contingencies not taken into account in the estimate of Dr. Price, but the \$40 annuity certain for thirteen years was worth, at 5 per cent. interest, approximately \$375.60, while by the prevailing estimate for mortality, for ages 40 and 20, the latter the expectant life, the present value was about \$162 for the \$40 annuity.

Between December 25, 1771, and December 25, 1772, an epidemic period, there were 1,291 deaths in the city in a population of about 30,000. In 1773 there were 300 deaths by small-pox—nearly one per cent. of the population; deaths from all diseases, 4 per cent. of population; and in 1776–7 small-pox and “camp fever” caused 2,500 deaths, equal to about 8 per cent. of the population. In 1774 a Society for Inoculating the Poor Gratis had been organized in the city, owing to the “great success attending inoculation having been so effectually demonstrated.”

During the American revolution, inaugurated by the conflict at Lexington in 1775, the preservation of the funds held by the Episcopal Corporation was an object of solicitude, but the outcome was rather a restriction in operations than a depreciation of security. The funds of the Corporation stood as follows at the dates named:—

	Pennsylvania.	New York.	New Jersey.
October, 1774, . . . . .	£1411 6 10	£1006 7 8¾	£232 6 8
Close of the Revolutionary War, .	2795 10 6	1237 10 7¾	18 14 3

The 1774 New Jersey fund was lost—the New Jersey treasurer, a royalist, leaving the country. There was some uncertainty as to the New York account at the close of the war, growing out of questions of interest and Continental paper money. The Pennsylvania fund was “solid and forthcoming”;\* Samuel Powel, treasurer. There were twenty-seven contributors in 1771; of the contributors, only four were payers in 1775.

As indicated by an advertisement which appeared in 1780 in the Pennsylvania Gazette and Weekly Advertiser, the analogous Presbyterian organization was not financially so fortunate, there being a call for a meeting of those concerned, in the following words:—

*Philadelphia, November 6, 1780.*

THE CORPORATION for the Relief of PRESBYTERIAN MINISTERS, their Widows and Children, are to meet on Wednesday, the 29th of November, at Ten O'clock, A. M. at the First Presbyterian Church in this City, to consider how the Rates and Annuities are to be paid, the Fund having suffered greatly by the Depreciation of the Continental Currency.

JAMES SPROAT, Secretary.

Of the benefactions received by the Episcopal Corporation in its first ten years the last was received in 1774, and the Corporation became inactive; in fact, by all outward signs, it had terminated at the close of the Revolutionary war; but there is a spirit in man, or the elect of men, which maintains the onward world. Samuel Powel was heard from in an effort at revival, shown by this advertisement in the Pennsylvania Gazette:—

\* Historical Sketch of the Corporation, by John William Wallace; 1869.



Several Gentlemen in New-York, New-Jersey and Pennsylvania, who were Members of the late "Corporation for the relief of the Widows and Children of Clergymen in the Communion of the Church of England in America," intend to meet at Brunswick, in the State of New-Jersey, on Tuesday, the 12th day of May next, for the purpose of requesting a Revival of the said Corporation, which hath become extinct from their neglect of their annual meetings, necessarily occasioned by the late war. The subscriber, late Treasurer of the said Corporation, at the request of the said gentlemen, hereby gives this Public Notice of the said intended meeting, to such gentlemen as were Members of the said Corporation, whose attendance at the time and place above mentioned is earnestly requested.

SAMUEL POWEL.

April 19, 1784.

The meeting in 1780 of the Presbyterian Corporation and that called at Brunswick, N. J., in behalf of the Episcopal Corporation in 1784 were neither ineffective. Some small benefactions were subsequently received by the Episcopal fund, but the less financially equipped Presbyterian organization continued in due operation as to "Rates and Annuities," though in the lapse of years, with the trials they brought, the regulations had grown to be extraordinarily rigorous.

October 20, 1792, the form of the bond of the Presbyterian Corporation was changed, and a few years previous John Bleakly had bequeathed £1,000 to the fund. Up to 1792 over \$48,000 had been paid to annuitants. In the plan of 1792 one article provided as follows:—

XIV. And whereas it is of great importance that the number of contributors should never be suffered to decrease below the number that have been at any time contributors, it is agreed that any minister of the Presbyterian denomination, or the congregations under their pastoral care, although not in the communion of the General Assembly of the Presbyterian Churches of America, or any professor of the same denomination [may be admitted as contributor]. And further it is agreed that if any layman of the said Church or communion should chuse to become a contributor, he also may be admitted on the said terms until the number of contributors become seventy; And that afterwards laymen are not to be admitted to the benefits of the fund provided there are ministers of the said communion offering to become contributors sufficient to keep up that number, at least, forever.

In the execution of the contract now between the contributor and the Presbyterian Corporation, the former bound himself, under penalty of a named sum, for the performance of the agreements and stipulations set forth on his part. In such case—the penalty being £1,000—

. . . . . These are to desire and authorize you or any of you to appear for me, my heirs, executors, or administrators, in the said court, or elsewhere in any action of debt there or elsewhere brought, or to be brought against me, my heirs, executors, or administrators, at the suit of the said corporation, their successors or assigns for the said penalty of one thousand pounds as of any time or term past, present or any other subsequent term or time, there or elsewhere to be held and confess judgment thereon against me, my heirs, executors, or administrators, for the sum of one thousand pounds aforesaid, debt, besides costs of suit, by *non sum informatus, nihil dicit*, or otherwise, as to you shall seem meet, and for your or any of your so doing, this shall be your sufficient warrant. In witness whereof &c., . . . . .

The "Indenture" which followed contained a use of De Moivre's rule of life expectation, and stipulations, in addition to the requirement of annual rate of one-fifth of annuity, for (1) admission fee charged according to age above 28 years as amount of annuity in arrear, and for (2) deposit earning interest equal to annual rate, or for (3) present value of annual rate considered as annuity certain, viz.:—



This Indenture made this *10th day of October*, in the year of our Lord one thousand seven hundred and *ninety-four*, between *William Davidson* of the State of Pennsylvania, aged *28 years*, of the one part, and the Corporation . . . . . of the other part, witnesseth, That the said *William Davidson*, for, and in consideration of the covenants and agreements hereinafter mentioned on the part and behalf of the said Corporation, to be by them kept, performed and fulfilled, and of the benefits and advantages thereby to arise and accrue to the widow and children of the said *William Davidson* after his decease, and for divers other good considerations him thereto moving, doth covenant, promise, grant and agree to and with the said Corporation, by these presents, in manner and form following—That is to say: That he, the said *William Davidson* shall and will, at the time of the sealing and delivering of these presents, pay unto the Treasurer of the said Corporation a sum equal to the amount of the annual rate he may choose considered as an annuity in arrear for a term of years equal to half the excess of his age above *28 years*, at the time of his signing and sealing these presents, the same being computed at 6 per centum per annum, simple interest: and further, That the said *William Davidson* shall and will, during the time of his natural life, yearly and every year, pay, or cause to be paid unto the said Corporation, their successors or order, on the *22nd day of May*, in each year, the yearly rate or sum of *eight pounds* current money of the State of Pennsylvania; whereof the first annual payment is hereby acknowledged to have been made on the *22nd day of May*, in the year of our Lord *1794*, and further, That on the second marriage of the said *William Davidson* and on every subsequent marriage of the said *William Davidson* he shall or will pay or cause to be paid, unto the said Corporation, or their successors the sum of *eight pounds* over and above the said annual rate that shall become due to the said Corporation in that year, in which he shall so marry. For the punctual payment of the said annual rates, and other sums aforementioned, as they hereafter shall become due to the said Corporation, well and truly to be made to the said Corporation, he, the said *William Davidson* does by these presents bind himself, his heirs, executors and assigns, in the penal sum of *one thousand pounds*; and the said *William Davidson* doth hereby authorize any attorney of any court of record to appear for him, the said *William Davidson*, in an action or actions to be brought for the said penalty, and thereupon to confess judgment in any court in the state where he, the said *William Davidson* lives, or may have any property, so that distress may be levied on any of the goods, chattels, or real-estate of him the said *William Davidson* as well for the payment of the said annual rate or rates, or sums before mentioned, that may at any time be in arrear, as for the payment of all the legal expenses that may attend the levying of such distress, for the recovery of such yearly rates and other sums as may be due to the said Corporation. And the said Corporation and their successors do promise, covenant and agree to and with the said *William Davidson* his heirs, executors and administrators, by these presents, That if the said *William Davidson* shall well and faithfully fulfill and perform his covenant aforesaid, by paying or causing to be paid, yearly and every year, on the day and times aforesaid, during his natural life the said yearly rate or sum of *eight pounds* to the said Corporation, their successors or order, or by making a deposit, in the hands of the said Corporation, of such a sum of money, as that its annual interest, computed at 6 per centum, shall be equal to his yearly rate of eight pounds aforesaid, or by paying, or causing to be paid to the said Corporation a sum of money equal to the present worth of his annual rate, considered as an annuity to continue for a term of years equal to half the difference between his age at the time of making such payment and *86 years*, computed at 5 per centum per annum, compound interest; And, further; if the said *William Davidson* shall and will comply with the stipulations and conditions above mentioned for the recovery of the amount of the annual rate of *eight pounds*, when in arrear; then and in such case the said Corporation, and their successors, shall and will pay, or cause to be paid unto the widow or children of the said *William Davidson* the said sum deposited with the said Corporation by him the said *William Davidson* in his life time, if such a deposit shall have been made by him: And further; the said Corporation and their successors shall and will, yearly and every year, after the decease of the said *William Davidson*, well and truly pay, or cause to be paid, unto the widow and children, or to the widow, or to the children of the said *William Davidson* the annuity of *forty pounds* current money aforesaid, during the term, in the proportions, and in the manner and form as is expressed and particularly set forth and mentioned, in plan of agreement between the said Corporation and the contributors to the scheme, which for this purpose is to these presents annexed.

It is also agreed that if the said *William Davidson* should die in arrear to the Corporation aforesaid, such arrears shall be deducted from the earliest annuities which shall be due to his widow and children.

In witness whereof, &c. . . . .

The Plan of Agreement followed, comprised in twenty-eight articles:—

1. That the yearly rates of contributors to the fund for the support of their widows and children, shall be either two pounds, equal to five dollars and one-third; three pounds, equal to eight dollars; four pounds, ten dollars and two-thirds; five pounds, equal to thirteen dollars and one-third; six pounds, equal to sixteen dollars; seven pounds, equal to eighteen dollars and two-thirds; eight pounds, equal to twenty-one dollars and one-third; or nine pounds, equal to twenty-four dollars; and the annuities to be paid by the Corporation to the widows and children of contributors, be respectively five times the said yearly rates, that is to say—ten pounds, fifteen pounds, twenty pounds, twenty-five pounds, thirty pounds, thirty-five pounds, forty pounds, or forty-five pounds.

2. That any minister of the Gospel in the communion of the General Assembly of the Presbyterian Churches in America, may become a contributor to the fund in one year after his first settlement in a congregation; that is, at the first meeting of the General Assembly in the month of May that shall happen one year after his settlement; or any candidate under their care may become a contributor upon paying one year's rate and giving bond to the corporation for the annual payment of the said rate during his natural life.

7. Any contributor may exchange his old bond for such a new one as is annexed to these articles; and having exchanged it, shall not be liable to a forfeiture of the annuity intended for his family; but any contributor adhering to the original bond heretofore given by him to the Corporation, if he shall die in arrears to the fund more than one year's rate, shall be considered as having forfeited the annuity to which his family would otherwise have been entitled.

28. That the Corporation shall and may make such alterations in this plan from time to time as shall be for the benefit of the fund and contributors, giving notice to the contributors of such alterations from time to time.

In 1793 the great pestilence of yellow fever began in the city, to recur during successive years. Vessels had arrived in July from the West Indies, where the fever had been raging. The first death occurred in August, at a lodging house on Water street. The population of the city and districts was then about 47,000. In the "city and suburbs," for year ended August 1, 1791, the deaths numbered 1,309; 1792, deaths 1,245; 1793, deaths 1,497. In the month of August, 1793, the deaths numbered 361, showing more than a duplication of the normal mortality, and an exodus of the inhabitants began which continued until two-fifths of the people had left the city. Despite of such withdrawal, the mortality increased to 1,514 in September, rose to 2,045 in October, diminished rapidly with the occurrence of the first frost—the last yellow-fever death taking place November 9, in which month the mortality from all diseases was 82. Total interments in Philadelphia during the four months named were 4,002. In the year ended August 1, 1794, the total deaths in the city were 4,292. The Assembly enacted a quarantine law in 1794. In the year ended August 1, 1795, the burials numbered 1,759—about one-fourth due to yellow fever.

As an exceptional or incidental practice, the risk of death had been written by personal marine underwriters in the United States after the London regulations, being, as a rule, at the rate of 5 per cent. per annum for the accepted ages, unless the perils were extraordinary.\*

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\* The following was an insurance (written policy) upon the life of General Benjamin Lincoln, collector of the port of Boston at the time the policy was executed:—  
No. 1088

Insurance is hereby made by Benjamin Lincoln Esq'r on his Natural life, aged about fifty Six years, for and during the Term and Space of twelve Kalender Months, to Commence from The day of The date hereof, and fully to be Compleated and ended, and it is declared that, this Assurance is Made for the Use and benefit of the said Benjamin Lincoln, his heirs, Executors, Adm'r's & Assigns, in Case of the death of



Such policies, as maturing by natural death, were of the character of the life policy, where the casual is not involved as fundamental. But the risk of a year was simply a question of percentage of occurrence of the event insured against. There was no "endowment"—no reversion to be valued. A fire at sea was a marine insurance risk, not a fire insurance risk, and loss was particular or general average according to circumstances. Insurance of a life as liable to be lost by the perils of the sea was a marine risk of a fatal accident nature. The marine principle comprehended whatever happened in the way of damnification which did not arise from the inherent defects or nature of what was damnified. Though ultimate death was a certainty, yet death at a given age was a contingency, and life could be conventionally valued. The loss of life could not be indemnified, but insurance *per se* dealt in contingent disasters and a value contingent upon death was made an insurability.

The Insurance Company of North America was authorized by its charter to make insurances upon "the life or lives of any person or persons." A committee of the directors—Messrs. Blodget, Fry and Breck—was appointed January 9, 1795, to form some plan as to such risks,\* and with what suggestions were at hand the board some months afterwards began to act upon an occasional application for life insurance. Two were approved May 21, 1796, one for \$24,000 upon the life of John Holker from June 6 to September 19 inclusive, at 1½ per cent. for the short term, but the insurance does not seem to have been consummated by the execution of a policy. On the other application this collateral security policy was issued:—

By the President & Directors of the Insurance Company of North America

WHEREAS *Theophile Cazenove* doth make Insurance and cause himself to be insured upon the Natural Life of *Bon Albert Briois de Beaumez* (who attained the age of Forty one years in the month of December now last past, and is about to sail for India on board

the said Benjamin Lincoln, within the Period of twelve Kalender Months as aforesaid, and we the Assurers do agree, That the life of the said Benjamin Lincoln is and shall be rated at the Sum of one Thousand pounds lawfull money, and Valued at that Sum, without any further Account to be given for the Same, acknowledging ourselves to be Content to bear the risque & Hazard for The Term aforesaid, for which we have received the Primium due to us of five pounds per Cent, and for which we do Assure and Promise, That the said Benjamin Lincoln, by the Permission of Almighty god, Shall live and Continue in this Natural life, for the Term and Space of Twelve Kalender Months as aforesaid, or in default thereof, That is to say in Case the said Benjamin Lincoln shall in or during the said Term, and before the Expiration thereof happen to die or decease out of this world, then we will well and Truly pay and Content unto the heirs, Executors, Adm'rs or assigns of the said Benjamin Lincoln, The Sums we have hereunto Subscribed, hereby Promising and Binding ourselves, not one for the other, but each one for himself, his heirs, Executors, Adm'rs & Goods. Provided allways, and it is hereby declared That The True intent and meaning of this Policy of Insurance is Accepted by the said Benjamin Lincoln upon Condition, That the same shall be Utterly void and of no Effect in Case he the said Benjamin Lincoln, shall voluntarily go into any Warrs by Sea or Land or Undertake any other Hazardous Matter—Whereby his life may be lost, Without the License of us the Subscribers for so doing. In Witness Whereof We have hereunto Subscribed our Names in Boston December The Twenty first one Thousand Seven hundred & Ninety.

N. B. it is agreed and understood That this Policy of Insurance Shall Cease and be ended on The Twenty first day of December 1791, at the Setting of the Sun.

£300	John Coffin Jones three hundred Pounds.
300	Joseph Russell, Ju'r Three Hundred pounds.
200	Caleb Hopkins Two hundred pounds.
100	Thos. Dickason, Jun'r One Hundred pounds.
100	Daniel Sargent One hund'd pounds.

£1,000 lawfull money.

\* Hist. Ins. Co. N. A., 73.



the Ship *Asia* whereof *Captain Edward Yard* is commander) for and during the Term and Space of Eighteen calendar months commencing on the Day of the Date hereof; and fully to be complete and ended: And it is declared that this Insurance is made to and for the use Benefit & Security of the said *Theophile Cazenove* his Executors Administrators and Assigns, in case of the death of the said *Bon Albert Briois De Beaumez* within the time aforesaid; which the above president and Directors do allow to be good and sufficient ground & Inducement for the making this Insurance, and do agree that the Life of the said *Bon Albert Briois de Beaumez* is and shall be rated and valued at the sum insured. The said President & Directors therefore for and in consideration of Ten per cent to them paid, do Assure, assume and promise that he the said *Bon Albert Briois de Beaumez*, shall, by the permission of Almighty God, live and continue in this natural Life for, and during the said Term and space of Eighteen calendar months to commence as aforesaid; or, in default thereof, that is to say, in case he the said *Bon Albert Briois de Beaumez* shall in and during the said Time and before the full end and determination thereof, happen to die or decease out of this World, by any way or means whatsoever, suicide, or the hands of Justice excepted, that then the above mentioned President & Directors will well and truly satisfy and pay unto the said *Theophilus Cazenove*, his Executors, Administrators or Assigns the sum or sums of money by them Assured, and hereunder-written, hereby promising and binding themselves and their successors to the Assured his Executors, Administrators, or Assigns, for the True performance of the premises, confessing themselves paid the consideration due unto them for this Insurance by the Assured, provided always and it is hereby declared to be the true Intent and meaning of this Insurance and this Policy is accepted by the said *Theophilus Cazenove* upon condition that the same shall be utterly void and of no effect in case the said *Bon Albert Briois de Beaumez* shall at the Date hereof exceed the age of Forty one years and an half, or shall voluntarily go to sea (except on his intended voyage to India above mentioned) or into any Wars, by Sea or Land without Licence in writing first had and obtained from the said President and Directors, for his so doing, anything in these presents to the contrary hereof in any wise notwithstanding. In Witness Whereof the President & Directors of the Insurance Company of North America have, by the said President, subscribed the sum insured, and caused their common Seal and the Attestation of their Secretary to be annexed to these presents, at their Office in Philadelphia on the Twenty fifth day of May one thousand seven hundred and ninety six.

*Drs 5000 @ 10 p ct.*

Policy \*

500

50 500 50

\* Three-quarters of a century previous, *i. e.*, in 1721, the following policy was issued by the London Assurance corporation (fire):—

*Government Stamp,  
3s. 10d.*

No. 12.

BY THE GOVERNOR AND COMPANY OF THE LONDON ASSURANCE OF HOUSES AND GOODS FROM FIRE.

IN THE NAME OF GOD, AMEN. MR. THOMAS BALDWIN of St. Margarets Westminster Doth make Assurance, and causeth himself to be assured upon the Natural Life of MR. NICHOLAS BOURNE of St. Margarets Westminster for and during the Term and Space of Twelve Calendar Months, to commence the First day of December next in the Year of Our Lord One Thousand Seven Hundred and Twenty-one and fully to be compleat and ended. And it is Declared, that this Assurance is made to and for the Use, Benefit, and Security of the said Thomas Baldwin, his Executors, Administrators, and Assigns, in Case of the death of the said Nicholas Bourne within the Time aforesaid, which the above Governor and Company do allow to be a good and sufficient Ground and Inducement for the making this Assurance, and do agree that the life of him the said Nicholas Bourne is and shall be rated and valued at ye Sum Assured without any farther Account to be given to them for the same: The said Governor and Company therefore, for and in consideration of Five Guineas per-cent to them paid, do assure, assume, and promise, that he the said Nicholas Bourne shall, by the Permission of Almighty God, live, and continue in this Natural Life, for and during the said Term and Space of Twelve Calendar Months, to commence as aforesaid. Or in Default thereof, that is to say, In case he the said Nicholas Bourne shall in or during the said time, and before the full End and Expiration thereof, happen to dye, or decease out of this world by any Ways or Means whatsoever, That then the abovesaid Governor and Company will well and truly satisfy, content, and pay unto the said Thomas Baldwin, his Executors, Administrators or Assigns, the Sum or Sums of Money by him Assured, and here underwritten, without any Allowance, Deduction or Abatement whatsoever, to be made out of the same, or any Part thereof, and without questioning why or wherefore this Assurance was or is made, and without any manner of Dispute, Plea, Pretence, or Allegation whatsoever, in Law or Equity, to the contrary: Hereby promising and binding themselves and their Successors to the Assured, his Executors, Administrators, and Assigns, for the true Performance of the Premises, confessing themselves paid the Consideration due unto them for this Assurance by ye Assured.

PROVIDED ALWAYS, And it is hereby declared to be the true Intent and Meaning of this Assurance, and this Policy is accepted by the said Thomas Baldwin upon condition that the same shall be utterly void and of no effect, in case the said Nicholas Bourne shall voluntarily go to Sea, or into the Wars, by Sea or

September 27 a policy for \$8,000 was authorized on a life for one year at 8 per cent. with permission "to go and remain in the West Indies during that Period"; but whether the policy was issued or not does not appear. The rates were a variation from 5 per cent. per annum according to circumstances. Whether the project were practicable or not in the United States, the first cis-Atlantic corporate policy paying a sum in full at and upon the event of death had now been issued. The yellow fever was continuing in the city, but a local epidemic was only exceptionally to be treated by the Insurance Company of North America as an element of the death hazard, as its term risks upon the life of a person would seemingly be confined with rare exception to the hazards of the voyager and the distant sojourner. The policy had its limits, but latitude and longitude were not of them. Such kind of policy did for two hundred years before in England "assure, assume and promise" that he, the insured, "shall, by the Permission of Almighty God, live and continue in this Natural Life" in the period named—but he, the insured, might "happen" to die.

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Land, without License first had or obtained for his so doing, in Writing, under the Seal of the said Governor and Company. Any Thing in these Presents to the contrary hereof in anywise notwithstanding.

IN WITNESS whereof the said Governor and Company have caused their Common Seal to be hereunto affixed, and the Sum or Sums by them Assured, to be here under-written, at their Office in London, This Twenty-fifth day of November, in the Eighth Year of the Reign of Our Sovereign Lord George by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c.

ANNOQ. DOMINI One Thousand Seven Hundred and Twenty-one.

£100.

The said Governor and Company are content with this Assurance for One Hundred Pounds. prem'm rec'd.

*Witness,*

J. W. WILSON, *Secry.*

[L. S.]

## CHAPTER III.

*The Yellow Fever in 1797-98—The Life Policy in the United States at the Opening of the Nineteenth Century—Policies issued by the Insurance Company of North America—The Corporation for the Relief of the Widows and Children of Clergymen in the Communion of the Protestant Episcopal Church in the Commonwealth of Pennsylvania in 1806—Weekly Bills of Mortality issued by the Board of Health—Inquiries on the Subject of the Annuity Premium Life Insurance—The Pelican Life, of London, opens an Agency in Philadelphia—Israel Whelen, Agent of the Pelican, sets forth the Benefits, Purposes and Adaptations of Life Insurance—An Association called the Pennsylvania Company for Assurances on Lives and Granting Annuities proposed in 1809—Something of its Articles of Association—Philadelphia Deaths by Ages in 1810—Yellow Fever Mortalities—Dr. Mease's Views on Vitality and Sanitary Progress in the City—Small-Pox Mortalities—The Northampton and Wigglesworth Tables compared—Incorporation of the Pennsylvania Company for Insurances on Lives and Granting Annuities—Its Original Corporators and its Corporate Character—The First American Actuary—The Presbyterian Corporation in 1813—The Consideration of Local Mortality as affecting Rates—London Rates not unqualifiedly accepted—The Life Expectations as computed by Jacob Shoemaker from the Bills of Mortality of the Episcopal Church and the Board of Health—Comparative Tabular Expectations—Table of Life Annuity Values—Premium Table, One Year, Seven Years, Whole Life—Comparison of London Premium Rates and Philadelphia Premium Rates in 1814 with Northampton Death Cost—A Table of Single and Annual Payments for Survivorship Annuities, Five Year Age Difference—Ten-Year Deferred Age-Annuities—Children's Endowments and Deferred Annuities—Forms of Application for Annuities—Application for Reversionary Payment—Declarations for Insurance on Own Life and on Life of Another—Address of the President and Directors of the Pennsylvania Company, etc., to the People of the United States—The Whole Life Policy of the Pennsylvania Company—The Term Policy—Annuity Bond—Annuity Payments and Over-estimated Death Rates—What the Pennsylvania Company was doing in 1817—Philadelphia Mortality in 1820—The Methods of the Pennsylvania Company and the Public Acceptances—Regulations, Annuities and Covenant of the Presbyterian Corporation in 1827—Decline in Ratio of Philadelphia Death Occurrences, 1821-30—The Mortality of Whites and Colored, 1830—Death Rates of Age Groups, 1830—Effect of Prominence of Particular Age in Age Group Death Rating—The Pennsylvania Company re-rates upon a Lower Mortality Assumption—Life Premiums reduced, and Annuities (immediate) lessened in Percentage of Payment—Comparisons with Carlisle Table Basis—Nothing known of Assets and Liabilities. (1797-1831.)*

IN the year ended August 1, 1797, the deaths in the city were reduced to 1,666 by the abatement of the yellow fever.\* Then the pestilence broke out with augmenting fatality, and with the city population depleted by a great exodus therefrom there were 1,292 deaths from the great scourge in the calendar year



1797, increasing in 1798 to 3,645, when the disease culminated. In 1800 the population of the city and liberties was 70,287.

Apart from the annuity contracts it is probable that there were not a hundred policies in force in the United States on the risk of life at the beginning of the nineteenth century, admitting that in a few instances policies had been secured from English offices. Secretary Hazard, in response to an inquiry from the Manhattan Company, of New York,\* writing November 20, 1799, said: "There have been but few instances of this kind, perhaps half a dozen, in each of which we have gained the premium." February 15, 1803, an insurance for \$10,000 was approved "on the Life of General de Noailles (who is now supposed to be in the Havana) for six months at the rate of 5 per cent., he being prohibited from acting as an officer or soldier in any military expedition, or from returning to the West Indies after his arrival here during the continuance of the said Risque," *i. e.*, the risk of the return voyage was not included, but the insurance was declined by De Noailles. No policies of the kind appear to have been issued after 1800 by the Insurance Company of North America.

The Corporation for the Relief of the Widows and Children of Clergymen in the Communion of the Church of England in America, altered in title, was now resuscitated. March 23, 1797, the State of Pennsylvania had passed an act

. . . . . authorizing a division of the aggregate funds, between the three component [State] classes of members, and when that division should be completed by virtue of similar acts in New Jersey and New York, enacted that the members who were citizens of this State, and their successors, should be entitled to manage their share of the aggregate funds as a sole and separate corporation, under the name and title herein first stated, according to the original design of the charter of 1769.

This division was by the authority of the law in the three States agreed upon in November, 1806. . . . . At the date of the agreement in 1806, the aggregate funds subject to existing contracts, amounted to 26,485 dollars, of which 10,390 dollars was agreed to be the share of the future corporation in Pennsylvania, 11,806 dollars the share of the future corporation in New York, and 4289 dollars the share of the future corporation in New Jersey, each of the three new corporations to remain liable for their respective proportional part of any claims under such existing contracts. This sum of 10,390 dollars, subject to the said proportion of claims, was, therefore, in 1806, the fund or capital of the present corporation,† [*i. e.*, The Corporation for the Relief of the Widows and Children of Clergymen in the Communion of the Protestant Episcopal Church in the Commonwealth of Pennsylvania.]

By a statute of 1806, the board of health, established in 1803, made weekly statements of the city deaths, including the ages and diseases of the deceased. The annual mortality was about 2.3 per cent. of the population.

There had begun to be some active interest shown in the death maturing policy, involving some correspondence between parties in the United States and English insurers. One of the earliest proprietary London companies opened an agency in Philadelphia, and thereupon this novel and significant local announcement was made March 3, 1807:—

\* Hist. Ins. Co., N. A., 74.

† Horace Binney; Pref. to Fundamental By-laws, etc.

INSURANCES UPON LIVES,  
BY THE  
PELICAN LIFE INS. CO. OF LONDON.

THE PELICAN LIFE INS. CO. of *London*, was established in the year 1797, by a numerous and respectable proprietary upon an extensive Capital, vested in the Public Funds, with the additional Responsibility of every individual Proprietor. The Board of Directors in consequence of repeated applications on the subject, having determined to extend their engagements to the Continent of *America*, deem it proper briefly to suggest to the minds of the public, the numerous and important benefits resulting from such an institution to every rank and class of Society.

Persons in the receipt of income arising from Estates dependent upon Life—profits in business—offices, civil or military—by the yearly payment of a moderate premium, may secure at their Death an adequate provision for their families, relations, or friends. Fines payable on leases renewable at the death of particular persons, may be provided for by Insuring the lives of such persons. Insurance affords the means of reimbursement to those who advance the money upon life annuities, and in many cases furnishes ample security for the loan of money. Persons entitled to property in Expectancy or reversion, or upon attaining a given age, may secure an equivalent, in case their interests should be affected by premature death. In a variety of other instances & most peculiar as applicable to persons engaged in commercial pursuits, or in the enjoyment of casual income, this valuable precaution will establish a resource to which families may look with confidence and security, and by which the distresses too often attendant upon human life, may be alleviated or effectually prevented.


The rates of premium for such insurances, will be rendered as moderate as possible, and in every instance proportioned to the age, health, and other circumstances of life assured.

Persons desirous of proposing insurances, either upon their own lives, or the lives of others, in which they are interested, or of obtaining further particulars and information, are requested to apply to the undersigned.

ISRAEL WHELEN,  
Phoenix Fire Office, No. 159 Market street.

That this adventure of the Pelican was not altogether in advance of the local possibilities for life insurance, was in something intimated by the circumstance that a Philadelphia life insurance company of the same kind was at least thought of, but competition between a local experiment and an apparently established institution was not deemed favorable to the business prospects of the former, especially in regard to short term insurance. Substantially, however, life insurance practice had yet to be created in the United States.

An association called The Pennsylvania Company for Insurances [first Assurances] on Lives and Granting Annuities was projected, and while the project matured slowly, it was in readiness for formal organization late in 1809, as announced by the following advertisement in Poulson's American Daily Advertiser of December 20:—

 The Pennsylvania Company for Insurance on Lives, &c., are requested to meet pursuant to adjournment, at the longroom, at the Coffee house at half past 5 o'clock, this evening to sign the constitution and elect directors.

The antagonism to foreign insurance companies, resulting as it did in the State prohibition of March 10, 1810, rendered the experiment with the Pelican nugatory, and the Pennsylvania Company was left alone without competition in the business, and without coöperation in the work.

The Articles of Association reported by a committee chosen December 9, 1809, stipulated:—

1. The Capital Stock of the Company shall consist of *five hundred thousand dollars*, in money of the United States, which shall be divided into *five thousand shares of one*



*hundred dollars* each; one thousand shares whereof, shall be reserved for the State of Pennsylvania, if the Legislature will accept them on the terms prescribed by these articles;

5. The Actuary shall receive all applications for insurances and annuities, and make all necessary inquiries respecting the same, under the instruction of the Board of Directors; calculate the respective premiums and prices of Annuities, and report the same to the Board; and if approved, prepare the Policies and Bonds which shall be signed by the President, and at least one Director, and countersigned by the said Actuary.

11. Five per cent. to be deducted from profits before making dividends, & to accumulate as a reserve fund until it reaches \$50,000, when the deduction of 5 pr ct shall cease, but the reserved fund separately employed until it amounts to \$250,000, after which the income therefrom arising shall be divided as profits.

Jacob Shoemaker was secretary of the committee; whether he sanctioned or merely acquiesced in the reserve ideas of Article 11 is unknown.

In 1810 the population of the city and liberties was 96,664 (not including the rural sections of the county); deaths in 1810 by report of the Board of Health, 2,036; highest number of annual deaths in the four years 1807-10, 2,271; lowest, 2,004. Deaths by ages in 1810 were:—

Years.	No.	Years.	No.
Under 2, . . . . .	760	From 50 to 60, . . . . .	142
From 2 to 5, . . . . .	115	60 " 70, . . . . .	96
5 " 10, . . . . .	59	70 " 80, . . . . .	68
10 " 20, . . . . .	73	80 " 90, . . . . .	45
20 " 30, . . . . .	240	90 " 100, . . . . .	9
30 " 40, . . . . .	264	100 " 110, . . . . .	2
40 " 50, . . . . .	163		

This was a mortality of 2.106 per cent. of the population (still-births included), yet the epidemic possibilities were to be considered, as so late as 1805 the deaths from yellow fever alone were equal to 11 per 1,000 of population; that is to say, the yellow fever added for that year 50 per cent. to the normal mortality, and a still higher percentage to the mortality of the adult ages.

Dr. Mease, qualified to present the medical and sanitary ideas of his time, said, in 1811:—

From a variety of causes, a considerable change has taken place in the forms of our diseases within the last thirty years.

1. The proportional diminution in the use of animal food, the general abolition of hot family suppers by our citizens, and of tavern clubs, and the increased use of vegetable aliment, have contributed to lessen the number of apoplexies, palsies, dropsies, and other complaints depending upon repletion and exposure to night air.

2. The substitution of malt liquors for punch, which was formerly the fashionable beverage at noon, at dinner, and at supper; and the use of flannels, or muslins, next the body, have expelled the dry gripes, formerly a fatal disease in Philadelphia.

3. The universal use of umbrellas, and the increased use of high crowned hats have lessened the diseases arising from the operations of the sun.

4. Vaccination is rapidly dispelling the loathsome small pox from the city. [The Society for promoting Vaccination among the Poor was organized in March, 1809.]

5. The diminution of deaths from consumption has already been mentioned.

6. The increased cleanliness of the city.\*

\* The Picture of Philadelphia, 46.



(In the Board of Health reports 1807-11, inclusive, the deaths from small-pox were 32 in 1807, 117 in 1811; greatest annual number in the five years, 145, in 1808.)

In 1781 the Northampton table had been adopted by The Society for Equitable Assurances on Lives and Survivorships, in London. Prof. Edward Wigglesworth, of Harvard University, deduced, in 1789, from 4,893 deaths in towns towards the sea coast (62 bills of mortality), a Table showing the Probability of the Duration, the Decrement, and the Expectation of Life in the States of Massachusetts and New Hampshire. It was an irregular graduation, and gave a higher death rate until age 44 than the Northampton. At the decennial years of life the comparative death percentages were as follows:—

Age.	Northampton.	Wigglesworth.
10, . . . . .	0.92	1.03
20, . . . . .	1.40	1.82
30, . . . . .	1.71	1.94
40, . . . . .	2.09	2.19
50, . . . . .	2.83	2.10
60, . . . . .	4.02	2.65
70, . . . . .	6.49	5.30
80, . . . . .	13.43	10.74
90, . . . . .	26.09	15.39
99, . . . . .	100.00*	100.00

\* Age 96.

For that life insurance which is constructively a discount of an endowment resting upon a given age, and due at the end of the final table year, with death cost of successive years of age paid in the interim, the time had now come, or was presumed to have come, on this side of the Atlantic. The Pennsylvania Company for Insurances on Lives and Granting Annuities was incorporated March 10, 1812, charter perpetual, and necessarily so; and the new project was precipitated into the whirl of the excitement caused by the declaration of war against Great Britain, June 18.

By the Act of Incorporation:—

SECTION 4. Provided that the first directors shall be Joseph Ball, John Claxton, Lewis D. Carpentier, Jacob Sperry, Joseph Peace, Patrick Gernon, Henry Lentz, Thomas P. Cope, Mahlon Hutchinson, John Bohlen, Andrew Pettit, John K. Helmuth and Samuel Yorke, who shall hold their offices until the third Monday of January, in the year of our Lord 1813, and until new directors shall be first chosen; and the said directors shall, within ten days after the passing of this act, meet and appoint their president.

SEC. 8. That the president and directors shall have full power on behalf of the said corporation to make insurances on lives by sea and on shore, and to contract for, grant and sell annuities and reversionary payments, and generally to make all kinds of contracts in which the casualties of life and interest of money are principally involved, except as before excepted, and to make, execute and perfect such and so many contracts, bargains, agreements, policies and other instruments, as shall or may be necessary, and as the nature of the case shall or may require; and every such contract, bargain, agreement and policy to be made, by the said corporation shall be in writing or in print, and shall be under the seal of the said corporation, signed by the president, and attested by the actuary or other officer who may be appointed by the president and directors for that purpose.

The actuary appointed was Jacob Shoemaker.

(May 23 this year the State divisions of the Episcopal Corporation were finally ratified and the operations of the distinctive Pennsylvania corporation began).

At a meeting of the other denominational organization, held May 28, 1813, it was, on motion,—

*Resolved*, By "The Corporation for the relief of poor and distressed Presbyterian Ministers, and of the poor and distressed Widows and Children of Presbyterian Ministers," that the VIIIth article of the plan of agreement, &c., be extended to all Theological Seminaries attached to or under the superintendence of the General Assembly of the Presbyterian Churches in America, or of any other body of Presbyterian Ministers in the United States in behalf of their principal professor and his successors, as also to any incorporated college or seminary of learning in the United States in behalf of its Provost, Principal or President, provided the benefits of the Fund shall never be extended to the families of any other than those of the Presbyterian Denomination.

ASHBEL GREEN,  
Secretary to the Corporation.

The following were among the existing conditions:—

[Congregations and the bodies as above may] make a permanent deposit in the fund (of a sum equal to the principal of any of the above rates, computed at 6 per cent.) which shall entitle the families of their ministers or principal professors forever, to the same benefits with those of individual subscribers: provided such minister or professor be of the Presbyterian denomination, and conform in all other respects to the conditions and regulations applicable to individual subscribers.

If the connection between any depositing congregation or seminary and their minister or professor shall be dissolved by deposition, removal, or otherwise, he shall not be deprived of the benefits of the deposit to his family, provided he shall pay annually into the Fund during his life, the interest of said deposit or an equivalent in one payment.

If any subscriber, whether an individual, or in virtue of a permanent deposit, shall die before the Fund shall have received from him, or on his account, a sum, without including interest, equal to 15 annual rates:—or shall die in arrear to the Fund; then the balance shall be deducted from the annuities payable to his family.

The Fund will pay to the widows and children of deceased subscribers, an annuity equal to five times their respective annual rates.

If the deceased subscriber shall have made no distribution of the annuity to his family, then trustees of the Fund shall make such distribution thereof as they shall judge most for their benefit, the widow not receiving less than any of the children.

The whole annuity will be payable to the widows and children for thirteen years after the decease of the subscriber. To the widow alone after the expiration of this term, during her widowhood; and if she shall marry, then half annuity from the time of her marriage during her life.

No forfeiture can be incurred by any neglect in making the regular annual payments to the fund; as the Treasurer may at any time sue for and recover any arrears that shall become due.

As soon as the fund shall be more than sufficient to pay all stipulated annuities, with all necessary charges, then the surplusage, or part of it, shall be divided among the annuitants, and distressed ministers, and their widows and families, in such manner as the Trustees may think proper: particular regard being had, in this distribution, to the families of deceased subscribers in proportion to the amount of their respective payments to the fund.

Consideration was given at the start of the Pennsylvania Company for Insurances on Lives and Granting Annuities to the influence of the local mortality upon the ratings of the varied life contingencies to be undertaken, which was to say that London rates would not be unqualifiedly accepted. The

annual bills of mortality of Christ Church (and St. Peter's) parish had been continued for many years, and the annual reports of the Board of Health after 1806 were at hand. From these records the following life expectations were deduced:—

TABLE NO. I.  
(Showing expectations of life.)

AGE.	Philadelphia, by the Episcopal Church.	Philadelphia, by the Board of Health.	AGE.	Philadelphia, by the Episcopal Church.	Philadelphia, by the Board of Health.	AGE.	Philadelphia, by the Episcopal Church.	Philadelphia, by the Board of Health.
1,	30.91	25.96	31,	24.99	20.93	61,	13.48	13.44
2,	34.43	32.92	32,	24.59	20.65	62,	13.04	13.06
3,	35.74	36.80	33,	24.19	20.40	63,	12.60	12.68
4,	37.30	36.85	34,	23.80	20.16	64,	12.17	12.25
5,	37.91	36.94	35,	23.40	19.95	65,	11.70	11.82
6,	38.60	37.02	36,	23.01	19.76	66,	11.23	11.41
7,	38.24	36.42	37,	22.64	19.57	67,	10.76	11.00
8,	37.88	35.83	38,	22.23	19.40	68,	10.30	10.60
9,	37.50	35.23	39,	21.83	19.25	69,	9.83	10.21
10,	37.12	34.59	40,	21.44	19.15	70,	9.37	9.83
11,	36.74	33.95	41,	21.05	19.09	71,	8.92	9.48
12,	36.09	33.20	42,	20.80	18.77	72,	8.54	9.15
13,	35.43	32.44	43,	20.22	18.54	73,	8.16	8.84
14,	34.77	31.68	44,	19.82	18.18	74,	7.75	8.47
15,	34.10	30.92	45,	19.42	17.91	75,	7.43	8.23
16,	33.43	30.16	46,	18.99	17.64	76,	7.06	7.78
17,	32.73	29.38	47,	18.55	17.44	77,	6.72	7.50
18,	32.02	28.60	48,	18.14	17.24	78,	6.40	7.25
19,	31.31	27.82	49,	17.73	17.02	79,	6.15	7.07
20,	30.60	27.04	50,	17.32	16.82	80,	5.95	6.97
21,	29.88	26.25	51,	16.92	16.66	81,	5.86	7.00
22,	29.40	24.57	52,	16.52	16.31	82,	5.40	6.65
23,	28.93	25.19	53,	16.13	15.97	83,	4.94	6.33
24,	28.46	24.67	54,	15.75	15.64	84,	4.50	6.00
25,	27.99	24.14	55,	15.40	15.33	85,	4.07	5.85
26,	27.50	23.61	56,	15.04	14.97	86,	3.66	5.50
27,	27.00	23.08	57,	14.68	14.62	87,	3.30	5.17
28,	26.50	22.55	58,	14.35	14.31	88,	3.00	4.92
29,	25.99	22.01	59,	14.04	14.00	89,	2.83	4.75
30,	25.50	21.48	60,	13.75	13.71	90,	. .	4.73

By different local enumerations and difference of methods and bases in computation there were now shown diversities in the average longevity after a given age, illustrated by the following expectations at decennial ages:—

EXPECTATION OF LIFE.

Age.	Episcopal Church.	Board of Health.	Northampton.	Wigglesworth.
10, . . . . .	37.12	34.59	39.78	39.23
20, . . . . .	30.60	27.04	33.43	34.21
30, . . . . .	25.50	21.48	28.27	30.24
40, . . . . .	21.44	19.15	23.07	26.04
50, . . . . .	17.32	16.32	17.99	21.16
60, . . . . .	13.75	13.71	13.21	15.43
70, . . . . .	9.37	9.83	8.60	10.06
80, . . . . .	5.95	6.97	4.75	5.85
90, . . . . .	—	4.73	2.41	3.73
95, . . . . .	—	—	.75	1.62



Whatever might be the verities as to the death rates of a given *general* population *at ages*, or longevities *from ages*, a life office could have but a part of any such population in a given period, and its experience would therefore vary from the course of general age mortality and longevity in such period.

The fundamental annuities being computed, the following present values (with decimal deviations) were issued, showing the annuity purchasing power of \$100, according to age. The values were between Northampton 4 and 5 per cent., viz.:—

*Age 30.*

Northampton 4 per cent., . . . . .	14.781
Pennsylvania Company, . . . . .	13.725
Northampton 5 per cent., . . . . .	13.072

TABLE NO. III.

*Showing the annuity which may be purchased for one hundred dollars, on a single life, from birth to the age of ninety-five.*

AGE.	Number of years' purchase.	Rate per cent. to annuitants.	AGE.	Number of years' purchase.	Rate per cent. to annuitants.	AGE.	Number of years' purchase.	Rate per cent. to annuitants.
Birth, . .	9.306	10.74	32, . .	13.496	7.40	64, . .	7.889	12.67
6 months, .	11.837	8.44	33, . .	13.377	7.47	65, . .	7.639	13.07
1 year, . .	12.141	8.23	34, . .	13.254	7.54	66, . .	7.385	13.54
2, . . . .	14.091	7.09	35, . .	13.127	7.61	67, . .	7.126	14.03
3, . . . .	14.841	6.73	36, . .	12.995	7.69	68, . .	6.862	14.57
4, . . . .	15.343	6.51	37, . .	12.861	7.77	69, . .	6.595	15.15
5, . . . .	15.568	6.42	38, . .	12.721	7.86	70, . .	6.324	15.81
6, . . . .	15.793	6.33	39, . .	12.577	7.95	71, . .	6.052	16.52
7, . . . .	15.924	6.27	40, . .	12.438	8.04	72, . .	5.779	17.30
8, . . . .	15.987	6.25	41, . .	12.279	8.14	73, . .	5.507	18.16
9, . . . .	15.970	6.26	42, . .	12.128	8.24	74, . .	5.239	19.08
10, . . . .	15.895	6.29	43, . .	11.977	8.34	75, . .	4.981	20.07
11, . . . .	15.795	6.33	44, . .	11.820	8.46	76, . .	4.736	21.11
12, . . . .	15.683	6.37	45, . .	11.660	8.57	77, . .	4.490	22.27
13, . . . .	15.567	6.42	46, . .	11.494	8.70	78, . .	4.236	23.60
14, . . . .	15.445	6.47	47, . .	11.323	8.83	79, . .	3.964	25.22
15, . . . .	15.317	6.52	48, . .	11.146	8.97	80, . .	3.690	27.10
16, . . . .	15.183	6.58	49, . .	10.965	9.12	81, . .	3.427	29.18
17, . . . .	15.050	6.64	50, . .	10.782	9.27	82, . .	3.171	31.53
18, . . . .	14.927	6.70	51, . .	10.602	9.43	83, . .	2.937	34.04
19, . . . .	14.818	6.75	52, . .	10.421	9.59	84, . .	2.759	36.24
20, . . . .	14.707	6.79	53, . .	10.235	9.77	85, . .	2.595	38.53
21, . . . .	14.612	6.84	54, . .	10.045	9.95	86, . .	2.444	40.91
22, . . . .	14.524	6.87	55, . .	9.851	10.15	87, . .	2.303	43.42
23, . . . .	14.433	6.92	56, . .	9.652	10.36	88, . .	2.184	45.78
24, . . . .	14.340	6.97	57, . .	9.448	10.58	89, . .	2.021	49.48
25, . . . .	14.245	7.02	58, . .	9.241	10.82	90, . .	1.810	55.24
26, . . . .	14.146	7.06	59, . .	9.028	11.18	91, . .	1.520	65.78
27, . . . .	14.045	7.12	60, . .	8.811	11.35	92, . .	1.211	82.56
28, . . . .	13.941	7.17	61, . .	8.590	11.64	93, . .	0.857	116.68
29, . . . .	13.835	7.22	62, . .	8.364	11.95	94, . .	0.551	181.48
30, . . . .	13.725	7.28	63, . .	8.129	12.30	95, . .	0.250	400.00
31, . . . .	13.613	7.34						

Term insurance for one year and seven years was decided upon, as well as the whole life insurance, and at the following scales of premiums respectively:—

TABLE NO. II.

*Showing the premium of insurance on a single life, for one and seven years, and for the whole duration of life to secure to the nominee, or to the lawful representative of the assured, the sum of one hundred dollars upon the demise of the life insured.*

AGE.	One year premium.	Seven years' annual premium.	Whole life annual premium.	AGE.	One year premium.	Seven years' annual premium.	Whole life annual premium.
8 a 14, . . .	.98	1.18	2.06	41, . . . . .	2.31	2.50	3.82
15, . . . . .	.99	1.25	2.12	42, . . . . .	2.39	2.56	3.93
16, . . . . .	1.06	1.35	2.18	43, . . . . .	2.45	2.63	4.04
17, . . . . .	1.16	1.43	2.24	44, . . . . .	2.50	2.71	4.16
18, . . . . .	1.27	1.51	2.29	45, . . . . .	2.56	2.79	4.29
19, . . . . .	1.37	1.56	2.35	46, . . . . .	2.62	2.89	4.41
20, . . . . .	1.50	1.62	2.39	47, . . . . .	2.69	2.99	4.54
21, . . . . .	1.59	1.66	2.45	48, . . . . .	2.76	3.10	4.68
22, . . . . .	1.61	1.68	2.49	49, . . . . .	2.87	3.21	4.82
23, . . . . .	1.63	1.70	2.54	50, . . . . .	3.03	3.34	4.99
24, . . . . .	1.65	1.73	2.59	51, . . . . .	3.15	3.45	5.14
25, . . . . .	1.68	1.77	2.65	52, . . . . .	3.24	3.56	5.30
26, . . . . .	1.71	1.79	2.70	53, . . . . .	3.35	3.68	5.47
27, . . . . .	1.73	1.83	2.76	54, . . . . .	3.46	3.82	5.65
28, . . . . .	1.77	1.86	2.81	55, . . . . .	3.57	3.96	5.85
29, . . . . .	1.80	1.89	2.87	56, . . . . .	3.69	4.11	6.16
30, . . . . .	1.82	1.92	2.93	57, . . . . .	3.83	4.26	6.27
31, . . . . .	1.85	1.96	3.00	58, . . . . .	3.97	4.43	6.50
32, . . . . .	1.89	1.99	3.06	59, . . . . .	4.13	4.62	6.75
33, . . . . .	1.92	2.02	3.14	60, . . . . .	4.29	4.80	7.00
34, . . . . .	1.95	2.07	3.21	61, . . . . .	4.47	4.99	7.28
35, . . . . .	2.00	2.13	3.28	62, . . . . .	4.60	5.22	7.57
36, . . . . .	2.03	2.18	3.37	63, . . . . .	4.81	5.49	7.89
37, . . . . .	2.07	2.24	3.45	64, . . . . .	4.99	5.76	8.23
38, . . . . .	2.12	2.30	3.54	65, . . . . .	5.23	6.09	8.62
39, . . . . .	2.15	2.35	3.64	66, . . . . .	5.50	6.47	9.03
40, . . . . .	2.23	2.43	3.72	67, . . . . .	5.80	6.89	9.47

A London premium table beginning to prevail at this time, also for ages 8 to 14, up to 67, was of this character (reducing pounds, etc. to percentages):—

	1 Year.	7 Years.	Whole life.
Age 30, . . . . .	1.66	1.75	2.67

By the Northampton table the seven successive annual death rates from and including age 30 were:—

Age.	Per cent.	Age.	Per cent.
30, . . . . .	1.71	34, . . . . .	1.84
31, . . . . .	1.74	35, . . . . .	1.87
32, . . . . .	1.77	36, . . . . .	1.91
33, . . . . .	1.80		

The annual average was 1.81 per cent.

At 5 per cent. interest, "true," death or net premium was, for age 30, 1.63; like annual premium from age 30 for seven-year term, 1.71; at 4 per cent. interest, net annual premium, whole life, initial age 30, was 2.49 per cent.

As shown, the annual gross premiums of the Pennsylvania Company for Insurances on Lives and Granting Annuities, age 30, were, per cent.:—

1 Year.	7 Years.	Whole life.
1.82	1.92	2.93

TABLE NO. IV.

*Showing the sum required [by the Pennsylvania Company for Insurances on Lives and Granting Annuities] in a gross payment, or in annual instalments, during the joint lives of two persons, whose difference of age is five years, for an annuity of one hundred dollars, to be enjoyed by the youngest life after the death of the eldest.*

Ages.	Gross payment.	Annual instalment.
25 and 20, . . . . .	316.80	26.42
30 " 25, . . . . .	322.10	28.01
35 " 30, . . . . .	327.40	29.89
40 " 35, . . . . .	332.90	32.12
45 " 40, . . . . .	335.30	34.77
50 " 45, . . . . .	337.40	37.94
55 " 50, . . . . .	332.90	41.19
60 " 55, . . . . .	326.50	44.89
65 " 60, . . . . .	317.10	49.76
70 " 65, . . . . .	306.30	56.96
75 " 70, . . . . .	280.90	64.62
80 " 75, . . . . .	248.10	73.38
85 " 80, . . . . .	203.90	79.25
90 " 85, . . . . .	150.40	73.80
95 " 90, . . . . .	162.50	138.29

TABLE NO. V.

*Showing the value of an annuity of one hundred dollars, at the several ages mentioned, deferred for the space of ten years.*

Age.	Sum.	Rate per cent.
40, . . . . .	520.26	19.22
45, . . . . .	455.80	21.94
50, . . . . .	385.87	25.91
55, . . . . .	312.67	31.98
60, . . . . .	234.69	42.61
65, . . . . .	155.89	64.14

TABLE NO. VI.

*Showing the sum which may be received at the several ages of twenty-one, forty-five, and fifty-five, for one hundred dollars, paid at the respective ages below, and also the equivalent annuity; or*

A TABLE OF ENDOWMENTS FOR CHILDREN AND DEFERRED ANNUITIES.

AGES.	21.		45.		55.	
	Sum receivable or endowment.	Equivalent annuity.	Sum receivable or endowment.	Equivalent annuity.	Sum receivable or endowment.	Equivalent annuity.
Birth, . . . . .	641.43	43.87	3,222.45	276.16	6,965.07	706.95
3 mos., . . . . .	560.89	38.36	2,818.12	241.51	6,090.56	618.19
6 mos., . . . . .	524.36	35.86	2,634.56	225.78	5,693.85	577.92
9 mos., . . . . .	488.60	33.42	2,454.92	210.38	5,305.60	538.51
1 year, . . . . .	453.57	31.02	2,278.92	195.30	4,925.23	499.91
2, . . . . .	363.71	24.87	1,827.40	156.61	3,949.40	400.86
3, . . . . .	322.51	22.05	1,620.42	138.86	3,502.07	355.46
4, . . . . .	291.98	19.97	1,467.01	125.72	3,170.53	321.80
5, . . . . .	269.58	18.43	1,354.46	116.07	2,927.27	297.11
6, . . . . .	249.18	17.04	1,251.98	107.29	2,705.80	274.63
7, . . . . .	231.84	15.85	1,164.83	99.82	2,517.46	255.52
8, . . . . .	216.70	14.82	1,088.74	93.30	2,353.07	238.83
9, . . . . .	. . . . .	. . . . .	1,022.66	87.64	2,210.19	224.33
10, . . . . .	. . . . .	. . . . .	963.77	82.59	2,082.92	211.41
11, . . . . .	. . . . .	. . . . .	909.47	77.94	1,965.56	199.50
12, . . . . .	. . . . .	. . . . .	858.46	73.57	1,855.31	188.31
13, . . . . .	. . . . .	. . . . .	810.24	69.43	1,751.11	177.73
14, . . . . .	. . . . .	. . . . .	764.67	65.53	1,652.62	167.74



AGES.	21.		45.		55.	
	Sum receivable or endowment.	Equivalent annuity.	Sum receivable or endowment.	Equivalent annuity.	Sum receivable or endowment.	Equivalent annuity.
15, . . . . .	. . . . .	. . . . .	721.61	61.84	1,559.55	158.29
16, . . . . .	. . . . .	. . . . .	680.91	58.35	1,471.61	149.36
17, . . . . .	. . . . .	. . . . .	642.09	55.02	1,387.69	140.85
18, . . . . .	. . . . .	. . . . .	604.84	51.83	1,307.20	132.68
19, . . . . .	. . . . .	. . . . .	569.14	48.77	1,230.05	124.85
20, . . . . .	. . . . .	. . . . .	535.06	45.85	1,156.38	117.37
21, . . . . .	. . . . .	. . . . .	502.43	43.05	1,085.86	110.21
22, . . . . .	. . . . .	. . . . .	471.41	40.39	1,018.84	103.41
23, . . . . .	. . . . .	. . . . .	442.27	37.90	955.71	97.00
24, . . . . .	. . . . .	. . . . .	414.72	35.53	896.29	90.97
25, . . . . .	. . . . .	. . . . .	388.84	33.32	840.37	85.29
26, . . . . .	. . . . .	. . . . .	364.49	31.20	787.74	79.95
27, . . . . .	. . . . .	. . . . .	341.58	29.27	738.23	74.93
28, . . . . .	. . . . .	. . . . .	320.02	27.42	691.63	70.20
29, . . . . .	. . . . .	. . . . .	299.74	25.68	647.80	65.75
30, . . . . .	. . . . .	. . . . .	280.67	24.05	606.58	61.56
31, . . . . .	. . . . .	. . . . .	262.73	22.51	567.81	57.63
32, . . . . .	. . . . .	. . . . .	245.86	21.07	531.36	53.93
33, . . . . .	. . . . .	. . . . .	230.01	19.71	497.10	50.45
34, . . . . .	. . . . .	. . . . .	215.10	18.42	464.89	47.17
35, . . . . .	. . . . .	. . . . .	201.10	17.23	434.62	44.11

FORM OF AN APPLICATION FOR AN ANNUITY TO COMMENCE IMMEDIATELY.

\_\_\_\_\_ of \_\_\_\_\_ on behalf of \_\_\_\_\_ desires to purchase an annuity of \_\_\_\_\_ dollars for the life of \_\_\_\_\_ to be paid half yearly on the \_\_\_\_\_ day of \_\_\_\_\_ and the \_\_\_\_\_ day of \_\_\_\_\_ annually, the first payment to be made on the \_\_\_\_\_ day of \_\_\_\_\_; the said \_\_\_\_\_ having been born at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_. This declaration to be the basis of the agreement; and if anything false or fraudulent is contained therein, all monies paid or which shall be paid, in consequence thereof shall be forfeited.

Date,  
Natural marks,

FORM OF AN APPLICATION FOR A DEFERRED ANNUITY.

\_\_\_\_\_ of \_\_\_\_\_ on behalf of \_\_\_\_\_ desires to purchase an annuity of \_\_\_\_\_ dollars for the life of \_\_\_\_\_ to commence on \_\_\_\_\_ attaining the age of \_\_\_\_\_ to be paid half yearly on the \_\_\_\_\_ day of \_\_\_\_\_ and the \_\_\_\_\_ day of \_\_\_\_\_ annually, the first payment to be made on the \_\_\_\_\_ day of \_\_\_\_\_; the said \_\_\_\_\_ having been born at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_. This declaration to be the basis of the agreement, and if anything false or fraudulent is contained therein, all monies paid or which shall be paid, in consequence thereof shall be forfeited.

Date,  
Natural marks,

FORM OF AN APPLICATION FOR A REVERSIONARY PAYMENT OR ENDOWMENT.

\_\_\_\_\_ of \_\_\_\_\_ on behalf of \_\_\_\_\_ desires to purchase an endowment of \_\_\_\_\_ dollars to be paid to \_\_\_\_\_ on \_\_\_\_\_ attaining the age of \_\_\_\_\_; the said \_\_\_\_\_ having been born at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_. This declaration to be the basis of the agreement; and if anything false or fraudulent is contained therein, all monies paid, or which shall be paid, in consequence thereof shall be forfeited.

Date,  
Natural marks,

THE SUBSTANCE OF A DECLARATION

required to be made and signed by or on behalf of a person who proposes to make an insurance *on his or her own life*.

I \_\_\_\_\_ born in \_\_\_\_\_ but now of \_\_\_\_\_, intending to make an insurance with "the Pennsylvania Company for insurances on lives, and granting annuities," in the sum of

—— upon my own life for —— do hereby declare that my age does not exceed ——; that I have —— had the small-pox or been vaccinated, and that I am not afflicted with any disorder which tends to the shortening of life; and I do hereby agree that this declaration be the basis of the contract between the said company and me, and that if any untrue averment is contained in this declaration, all monies which shall have been paid to the Company upon account of the insurance, made or to be made, in consequence thereof shall be forfeited. Dated the —— day of —— in the year of our Lord one thousand eight hundred and ——.

#### THE SUBSTANCE OF A DECLARATION

required to be made and signed by or on behalf of a person who proposes to make an insurance on the life of *another*.

I —— of —— intending to make insurance with "the Pennsylvania Company for insurances on lives and granting annuities," in the sum of —— upon the life of ——, born at —— in ——, do hereby declare that the said —— has not any disorder which tends to the shortening of life: that —— has —— had the small-pox or been vaccinated; and that the age of the said —— does not exceed —— years; and that I have an interest in the life of the said —— to the full amount of the said sum of ——; and I do hereby agree that this declaration be the basis of the contract between the said Company and me; and that if any untrue averment is contained in this declaration, all monies which shall have been paid to the Company upon account of the insurance made or to be made in consequence thereof, shall be forfeited. Dated the —— day of —— in the year of our Lord, one thousand eight hundred and ——.

*ADDRESS from the president and directors of The Pennsylvania Company for Insurances on Lives and Granting Annuities, to the inhabitants of the United States, [1814] upon the subject of the beneficial objects of that institution.*

Fellow Citizens:

Among the various modes of alleviating the misfortunes and calamities of life, which have been adopted by the inhabitants of Europe, none has more deservedly engaged the attention of the enlightened and benevolent, than the establishment of institutions for *insurances on lives and granting annuities*. In Great Britain especially this subject has been amply studied and pursued, and *there* have the benefits resulting from the most laudable exertions been most extensively displayed. Innumerable are the instances wherein families and individuals enjoy the comforts or the affluence of life, who, without the aid of such establishments, would have been reduced to want.

In America too, instances are within our knowledge, in which widows and children have derived a respectable subsistence from the same source, owing to the wise and prudent precautions of their husbands or fathers, and have thus been rescued from poverty and distress. But in these cases resort has been had to the institutions of England, because, in our own country, no such associations existed. . . . .

"The Pennsylvania Company for insurances on lives and granting annuities" was incorporated with a capital of *half a million of dollars*, by an act of the legislature of Pennsylvania, passed on the 10th day of March, 1812. At that period some untoward circumstances, among which was the expectation of a war, depressed, for the moment, the disposition of capitalists to embark in new enterprises; and the subsequent declaration of hostilities against Great Britain, rendered it advisable to withhold, for a time, any extraordinary exertions. In the spring, however, of 1813, the subject was resumed; the general sentiment was in favour of the institution, and the *whole capital stock was in a few days subscribed*. It was not, however, deemed advisable to call in the whole capital, inasmuch as few modes for the productive employment of large sums of money presented themselves, and inasmuch as such a measure could not be requisite until the company had entered into engagements which would call for additional security. *Twenty per cent.* was considered as amply sufficient to meet any extent of responsibilities which would probably be incurred within the first two or three years, and the sum of *one hundred thousand dollars* was consequently collected. As the business of the company progresses in extent, the remaining instalments of the capital stock will be called for, and thus will additional security be afforded as fast as it is required. This measure, whilst it is doing justice to the stockholders, the directors are persuaded will prove equally satisfactory to those who may transact business with the company; particularly when it is recollected that the associations for similar objects in England, many of which were established *without capitals*, upon the principle of *mutual assurance*, have been generally prosperous.

. . . . . It may now be proper to specify the particular species of contracts into which the company is now prepared to enter, accompanied by an explanation of the nature of each, for the information of those who are unacquainted therewith.



First, The company will make insurances on lives.

Secondly, Grant annuities; and,

Thirdly, Contract for reversionary payments; in which latter will be included endowments for children. . . . .

Before the rates proper to be demanded can be determinately fixed, it is necessary to ascertain the rate of compound interest at which the company will be able *permanently* to improve their monies for a course of fifty years to come, clear of all losses by sums lying at intervals unproductive for a week, a month, or more at a time, and also clear of all losses which might possibly occur from insufficient securities taken from mortgagers or others. By the nature of such an institution, its contracts made at the present day, extend their consequences and effects to distant times and to future generations. An annuity now purchased for a child of ten years of age, might continue to be payable for seventy or eighty years to come, and it is therefore of the utmost importance, and to the interest of all concerned, that the strictest caution should be observed from the commencement, in order that annuitants and persons assured should ever be impressed with a firm conviction of the solid foundation of the institution, and of its entire capacity to comply with all its engagements.

Impressed with these and other similar considerations, the Directors are firmly of opinion that although the legal interest of Pennsylvania is six per cent. they will not be able to employ their capital and the money received by them, permanently during states of peace and war, as they may occur, at a higher rate *than* five and an half per cent. compound interest. Upon this *datum* then, are their calculations founded; and they doubt not that the reasonableness of their position will appear manifest to all who are in any wise conversant with the employment of large sums of money.

With these remarks the Directors conclude their address, respectfully soliciting the attention of all persons into whose hands it may fall, and requesting them to make its contents known to those of their friends and neighbours who are in a situation to be benefitted by the opportunities hereby afforded them.

#### RULES OF THE COMPANY.

Every person desirous to make assurance with the Company must sign a declaration by himself or agent, setting forth the age, state of health, profession, occupation, residence and other circumstances of the persons whose lives are proposed to be assured: and also, in case such assurance is made upon the life of another person, that the interest which he has in such life is equal to the sum assured. This declaration is the basis of the contract between the Company and the person desirous to make such assurance; and if any artful, false or fraudulent representation shall be used therein, all claim on account of any policy so obtained shall cease, determine, and be void; and the monies which shall have been paid upon account of such assurance shall be forfeited to the use of the Company.

In like manner a declaration will be required from all persons who apply for the purchase of an annuity or reversion. No policy takes effect until the first premium be paid, and if any subsequent premium remains unpaid after the time stipulated in the policy, such policy becomes void; but if the defaulter shall, within two calendar months after the time so stipulated (the person on whose life the assurance was made being then alive and in good health)—pay the said premium, together with the additional sum of ten per cent. upon such premium, then such policy is revived and continues in force.

All claimants upon the decease of any person whose life shall have been assured by the Company, must make proof thereof by affidavit or certificate, and give such further information respecting the same as the board of directors shall think satisfactory. The time for payment of claims occurring by death, is within sixty days after proof of the death shall have been made as aforesaid.

In case the more immediate purpose of an assurance shall have ceased, and the owner of the policy shall be minded to dispose of the same; or any person assured by the Company shall himself stand in need of that assistance which was intended for his family, the Company will, upon application, become the purchasers of such an interest at a fair price.

The policies of persons assured on their own lives become void, if the assured die by their own hands, by the consequences of a duel, or by the hands of justice. The Company reserves to itself the right of making any alterations which the particular circumstances of applicants may in their opinion render expedient. A charge of one dollar will be made for each policy of assurance or bond for annuity, besides the premium or computed purchase money.

The office of the Company is open daily between the hours of 9 and 3 o'clock, at No. 72 South Second street, in the City of Philadelphia, where a committee of the directors sit three times a week to consider and decide upon the proposals which may be made to them.



Letters directed to the President, *post-paid*, will be speedily attended to, and answers given to any inquiries which may be made, respecting the terms and rates upon which the Company will transact business.

The present directors are,

President—Samuel Yorke;  
John Bohlen  
Joseph Peace  
John Claxton  
Jacob Sperry

Cadwalader Evans  
Jeremiah Warder Jun.  
Joshua Longstreth  
Condy Raguet

Charles N. Bancker  
John Welsh  
James Hemphill  
William Schlatter

Actuary—Jacob Shoemaker.

The application being for an insurance on the whole life, and the proposal accepted, the annexed warranty was issued. It shows that the former legal rigor which was presumed to have protected the marine writer under the contingencies of the seas and distant places had passed, with other elements, to the non-maritime life risk. While the company, however, continued to accept new life risks, it escaped litigation, and the language of the policy was never changed.

(Whole Life Policy.)

PENNSYLVANIA COMPANY FOR INSURANCES ON LIVES AND GRANTING ANNUITIES.  
Policy of Insurance

On The Life of ——— For \$——— Annual Premium \$———, payable during life.  
No. ....

These Presents Witness, That in consideration of the sum of ———, which ——— hath at the execution of these presents, paid to The Pennsylvania Company for Insurances on Lives and Granting Annuities (the receipt whereof is hereby acknowledged) and of the further sum of ——— to be paid on or before the ——— day of ——— in each and every year during the continuance of this Policy for Insuring the Life of ——— for the whole duration thereof, the said Company do hereby covenant and bind themselves (and their successors) that on the death of the said ——— the said Company shall and will, sixty days after due proof thereof, well and truly pay to the executors, administrators, or assigns, of the said ——— the just and full sum of ———.

Provided Always, and it is hereby expressly declared to be the true intent and meaning of these Presents, that if the declaration subscribed by ——— which hath been deposited with this Company, is in any respect not true, or if the said ——— shall die at sea, or by ——— own hands, whether sane or insane, or by reason of an attempt to commit suicide, whether sane or insane, or of any wound or injury received in a duel, or by the hands of justice, or if during the continuance of this Policy, the said ——— shall go beyond the limits of the United States, except within the British Provinces of New Brunswick, and Upper and Lower Canada, or within the said States to the Southward of the Southern Boundary of the States of Virginia and Kentucky, or shall enter into any Military Service, by Sea or Land, (except the Militia) without the consent in writing of the President and Directors of this Company, or if the said ——— shall not pay the said annual instalments on or before the day herein before mentioned for the payment thereof, then, and in every such case, the said Company shall not be liable to the payment of the said sum of ——— or any part thereof, and this Policy so far as relates to such payment shall be utterly void. Provided always nevertheless, that if within fifteen days after the day of payment before mentioned, the annual instalment then unpaid, shall be paid to the said Company, the said ——— being at the time of such payment living and in good health, but not otherwise, then this Policy shall have the like effect as if the said annual instalment had been paid on the day herein before mentioned for the payment thereof.

This Policy not to be assigned without the consent of the aforesaid Company.

In Testimony Whereof, The Pennsylvania Company for Insurances on Lives and Granting Annuities, have caused their common Seal to be hereunto affixed the ——— day of ——— one thousand eight hundred and ———.

By The Company

[L. S.] ..... President.  
..... Actuary.

Date of Receipt.	Premium Received.	Sum Insured.	Actuary's Signature.
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The following was the form of term policy, premium paid for full term:—

(Term Policy.)

PENNSYLVANIA COMPANY FOR INSURANCES ON LIVES AND GRANTING ANNUITIES.

*Policy of Insurance* on the life of ——— for \$ ———. Total premium \$ ———.

No.

These presents witness, that in consideration of the sum of ——— which ——— hath, at the execution of these presents, paid to *The ——— Company* ——— (the receipt whereof is hereby acknowledged), ——— for insuring the Life of ——— for the term of ——— from the date of these Presents, the said Company doth hereby covenant and bind themselves (and their successors), that, on the death of the said ——— provided, he shall die within the aforesaid term of ——— the said Company shall and will, sixty days after due proof thereof, well and truly pay to the executors, administrators, or assigns of ——— the just and full sum of ———. Provided, always, and it is hereby expressly declared to be the true intent and meaning of these Presents, that if the declaration subscribed by ——— bearing date ——— one thousand eight hundred and ——— which hath been deposited with this Company, is in any respect not true, or if the said ——— shall die at sea, or by his own hands, or by reason of an attempt to commit suicide, or of any wound or injury received in a duel, or by the hands of justice, or if during the continuance of this Policy, the said ——— shall go beyond the limits of the United States, except within the British Provinces of New Brunswick, and Upper and Lower Canada, or within the said States to the Southward of the Southern Boundary of the States of Virginia and Kentucky, or shall enter into any Military Service, by Sea or Land (except the Militia), without the consent in writing of the President and Directors of this Company, then, and in every such case, the said Company shall not be liable to the payment of ——— or any part thereof, and this Policy so far as relates to such payment, shall be utterly void. This policy to cease and determine at twelve o'clock, noon, on the ——— day of ———, which will be in the year one thousand eight hundred and ——— [18 ].

This policy not to be assigned without the consent of the aforesaid Company.

*In testimony whereof, The ——— Company ——— have caused their common Seal to be hereunto affixed the ——— day of ——— one thousand eight hundred and ——— [18 ].*

BY THE COMPANY.

ACTUARY.

[L. S.]

PRESIDENT.

Preceded by the Declaration for an Annuity on the part of the proposing annuity purchaser, making the truth of the statement (whether the party was actually older or younger) the basis of the contract, this bond was delivered if proposal were accepted:—

*Annuities.*

By The

PENNSYLVANIA COMPANY FOR INSURANCES ON LIVES AND GRANTING ANNUITIES.

These Presents Witness, that in consideration of the sum of ——— which ——— has, at the execution of these presents, paid to the Pennsylvania Company for Insurances on Lives and Granting Annuities (the receipt whereof is hereby acknowledged,) the said Company do hereby covenant and bind themselves and their successors to pay or cause to be paid to ——— one annuity or yearly sum of ——— in even and equal portions of ——— each on the ——— days of ——— and ——— in every year for and during the [natural life or otherwise] of the said ——— the first payment thereof to be made on the ——— next ensuing date of this obligation, and also to pay within sixty days after the death of ——— to ——— executors, administrators, or assigns, such proportionable part of the said annuity or yearly sum of ——— as may accrue up to the day of the death of the said ———.

Provided Always, and it is hereby expressly declared to be the true intent and meaning of these presents, that if the declaration attached to this bond, and subscribed by the above named ———, a counterpart whereof has been deposited with this Company, be in any respect not true, then and in every such case, the said Company shall not be liable to the payment of the said annuity or yearly sum of ——— or any part thereof; and this bond, so far as relates to such payment, shall be utterly void.



In Testimony Whereof, The Pennsylvania Company for Insurances on Lives and Granting Annuities, have caused their seal to be hereunto affixed the — day of — in the year one thousand eight hundred and —.

By the Company

..... President.

[L. S.]

Attest,

..... Actuary.

There might have been a question whether through the low expectation of life the company was not, as a grantor of immediate annuities, buying money at too high a scale of annual payment, while under its whole life rates it sold money for a high rate of annual remuneration, enhanced in result to the company by the absence of any provision for return of part-premium accrument. The diversities of the proposals met with a response as diversified, and as one year succeeded another, applications were received from other States, and from the cities of New York, Albany, Boston, Charleston, and the State of Connecticut. One signing himself A Friend of Prudence and Forethought wrote in 1817 that—

..... I find that a number of gentlemen of the first respectability, in this and other states, have been purchasing endowments for their children; by paying the office a moderate sum of one or two hundred dollars for each child, they have secured to them a competency when they arrive at the age of twenty-one, or any other given age. Aged persons have frequently purchased annuities which yielded an income much larger than common interest, annually or half yearly, to comfort and support their declining years. Young married men have made insurances, dependent on their lives, so as to secure to their families from five to fifteen thousand dollars, to be paid on their decease. Creditors have made insurances on the lives of their debtors in order to secure themselves against apprehended losses. Men going out as supercargoes, or in any other capacity, on voyages to sea, have also made such insurances on their lives, as a provision for their wives and children in case of their own decease abroad: and some young people have been so provident as to enter into engagements to pay small sums annually until 40 or 50 years of age, in order to secure to themselves handsome annuities after such age, during all the remainder of their lives.

The practice, however, presented all the characteristics of an incipient state; there was opportunity, and the question was how the opportunity could be improved to secure a sustaining degree of performance.

If the population of Philadelphia may be taken as being 119,325 in 1820, the officially reported deaths of the year, 3,374, show the high mortality of 28.2 per 1,000 living, with the death force augmenting the normal infant and minor mortality. Deaths of age under one year in 1820 were 24.8 per cent. of total mortality. Yellow fever, which had been somewhat sporadic in its occurrences, as well as epidemic, since 1793, though disappearing for years, presented 125 cases in 1820, with 83 deaths.

The proposals of the Pennsylvania Company for Insurances on Lives and Granting Annuities were, as shown and said, varied opportunity for the public to negotiate in reference to life contingencies. The company employed no personal introducers of its propositions; no method of credit was tolerated, but there was intelligent publication made to awaken attention to the means provided to secure ultimate personal money needs under the varied circumstances and happenings. It was rather, however, a day for annuities than for life insurance, and the term life risk was in vogue rather than the whole life risk. There may have been some public appreciation of the circumstance that



annuities were "cheap," and life insurance "dear." The voyager was more concerned about his hazard than he who did not go to sea; the creditor was more anxious about the security of the debt yet to mature than the head of a family about the future of those dependent upon him; but American life insurance had come to establish itself, and was on its progressive way in the third decade of the nineteenth century.

It was becoming late for the uniform annual payment in purchase of survivorship annuity, irrespective of age, *i. e.* the uniform rate in the *ratio* of \$20 per \$100 of annuity, and in how far the Presbyterian Corporation had changed, and in how far it was fixed, are shown by these citations from the regulations as established in 1827:—

*I. Conditions which Regard the Subscriber.*

ARTICLE 10. The subscriber may at any time instead of continuing his annual premiums, deposite with the Corporation a sum, the interest of which at 5 per cent. per annum shall be equal to these premiums; and in this case the deposite shall be returned to his family after his death.

ART. 12. For a second or any subsequent marriage of a subscriber, he shall pay to the Corporation a sum equal to the annual premium as estimated by the following table, corresponding to his age at the time, and the annuity for which he has subscribed.

*II. Conditions which Regard the Annuitants.*

ARTICLE 16. In one year after the death of any subscriber, and annually thenceforward, the Corporation shall cause to be paid to his widow or children, the stipulated annuity, in such manner as the Corporation shall judge most for the benefit of the family; provided that the share of a child shall never exceed that of the widow, and that no part of the annuity shall be continued to the children for more than thirteen years.

ART. 17. In sixty days after due notice of the death of any subscriber who has made a life-deposite, the amount of this deposite, without interest, shall be returned to his family; and such disposition made of it, as the Corporation shall judge most for the benefit of the family; unless, at the time of making such deposite, the subscriber shall have reserved to himself the right of absolutely disposing thereof, by will.

ART. 18. A subscriber may advise the Corporation, by will or otherwise, as to the disposal of an annuity, or of a life-deposite: but this advice shall not be absolutely binding.

ART. 19. If a widow only be left, she shall be entitled to the whole annuity during her widowhood.

ART. 20. If the widow of a subscriber marry again, she shall receive but half the annuity during the remainder of her life.

ART. 21. If there be a child or children, and no widow, the annuity shall be continued for thirteen years after the father's decease, and no longer.

ART. 22. If there be a child or children left, the whole annuity shall be paid for thirteen years, even if the widow shall marry or die before the expiration of this period.

ART. 23. The annuities shall be payable up to the time of death of the annuitant; her legal representatives being entitled to such proportional part of the annuity as shall correspond to the part of a year during which she shall have survived the last day of annual payment.

ART. 24. The Corporation may commute for an annuity, by the payment of a single sum of equal value, provided that they shall judge it to be for the benefit of the annuitants, and that it be done at their desire.

ART. 25. The application for the first annuity, after the death of a subscriber, must give a statement of the time of his death, certified by a magistrate, clergyman, or physician; the name and age of the widow, if one have been left; the names and ages of the children, if there be any; and such an account of the condition of the family as may enable the Corporation to dispose of the annuity in the manner best suited for their relief.

ART. 26. The annuity shall not, in any case, be assigned or transferred, without the consent of the Corporation, expressed in writing.

TABLE

*Showing the Premium, in Dollars and Cents, to be paid to the Corporation, in order to secure to the Family of the Subscriber, from the Time of his Decease, an Annuity of One Hundred Dollars, according to the foregoing Conditions.*

AGE.	Single Payments.	Annual Payments.	AGE.	Single Payments.	Annual Payments.	AGE.	Single Payments.	Annual Payments.
21, . . .	313.93	21.03	38, . . .	406.93	31.00	55, . . .	548.07	52.79
22, . . .	318.28	21.46	39, . . .	413.97	31.87	56, . . .	557.83	54.74
23, . . .	322.80	21.90	40, . . .	421.35	32.84	57, . . .	567.90	56.80
24, . . .	327.37	22.33	41, . . .	428.72	33.82	58, . . .	578.09	58.97
25, . . .	332.02	22.76	42, . . .	436.09	34.69	59, . . .	588.50	61.24
26, . . .	336.90	23.19	43, . . .	443.58	35.66	60, . . .	599.23	63.61
27, . . .	341.89	23.73	44, . . .	451.26	36.74	61, . . .	610.07	66.44
28, . . .	346.99	24.28	45, . . .	459.18	37.94	62, . . .	621.13	69.26
29, . . .	352.19	24.82	46, . . .	467.32	39.13	63, . . .	632.73	72.40
30, . . .	357.61	25.36	47, . . .	475.75	40.33	64, . . .	644.55	75.66
31, . . .	363.14	25.90	48, . . .	484.43	41.73	65, . . .	656.79	79.35
32, . . .	368.88	26.56	49, . . .	493.33	43.14	66, . . .	669.26	83.24
33, . . .	374.74	27.21	50, . . .	502.21	44.55	67, . . .	682.06	87.58
34, . . .	380.80	27.86	51, . . .	511.10	46.07	68, . . .	694.95	92.25
35, . . .	386.99	28.61	52, . . .	520.10	47.58	69, . . .	708.17	97.24
36, . . .	393.49	29.38	53, . . .	529.21	49.21	70, . . .	721.51	102.76
37, . . .	400.11	30.13	54, . . .	538.52	50.83			

*Declaration of Applicant.*

I, ———, Minister of the Gospel, in the Communion of the General Assembly of the Presbyterian Churches in America, wishing to secure to my family, after my decease, a reversionary annuity, according to the conditions offered by the Corporation for Relief of the poor and distressed Presbyterian Ministers, and of the poor and distressed Widows and Children of Presbyterian Ministers, do hereby make application for the same, and do declare, to the best of my knowledge and belief, that I was born on the ——— day of ——— A. D., ———, and that I am not afflicted with any disease which would render a contract depending on my life more than usually hazardous. Dated at ——— the ——— of ——— A. D., ———.

COVENANT OF CORPORATION.

*By the Corporation for Relief of poor and distressed Presbyterian Ministers, and of the poor and distressed Widows and Children of Presbyterian Ministers.*

THESE PRESENTS WITNESS, That in consideration of the sum of ——— paid by ——— to the Corporation for the Relief of poor and distressed Presbyterian Ministers, and of the poor and distressed Widows and Children of Presbyterian Ministers, the receipt whereof is hereby acknowledged, and of the further Sum of ——— to be paid ——— by him, to the said Corporation, on the twenty-second day of May in each year during his life, commencing on the twenty-second day of May next, the said Corporation do hereby covenant and bind themselves to him, his executors, administrators, to pay to his widow and children, after his decease, an annuity of ——— according to the foregoing conditions, and subject to all the provisions therein set forth.

*In testimony whereof,* The Corporation for Relief of poor and distressed Presbyterian Ministers, and of the poor and distressed Widows and Children of Presbyterian Ministers, have hereunto affixed their corporate seal, and have further attested the same by the signature of their Treasurer, this ——— day of ——— in the year of our Lord, one thousand eight hundred and ———.

[L. S.]

..... Treasurer.

With all the uncertainty of the data, there appears to have been a decline in the death rate of the city in the ten years subsequent to 1820, notwithstanding a severe visitation of small-pox within this period. The figures for the population of 1830 are 189,055 for the city and entire county—being 173,445 whites and 15,610 colored. Total deaths, white and colored, within the



enumeration of the bills of mortality appear to have been, including 302 still-births, 4,250.\* With 8.8 per cent. of the total population, the colored part of the community had approximately 10 per cent. of the total mortality. Taking 3,825 deaths, including still-births, as occurring among a white population (both sexes) of 173,445, or 22 to every 1,000 living, the death rates for 1830 among various age groups of such population are shown to have been:—

AGE.	Living.	Dying.	Death rate per cent.
Under 5 years, . . . . .	25,355	1,700	6.71
5 and under 10, . . . . .	21,401	126	0.59
10 to 15, . . . . .	19,164	68	0.30
15 to 20, . . . . .	21,652	90	0.42
20 to 30, . . . . .	36,881	457	1.25
30 to 40, . . . . .	22,960	466	2.03
40 to 50, . . . . .	12,862	317	2.47
50 to 60, . . . . .	7,180	240	3.34
60 to 70, . . . . .	3,967	175	4.41
70 to 80, . . . . .	1,512	99	13.16
80 and above, . . . . .	511	87	17.05

This may be regarded as an indefinite approximation to the actual mortality for whites of the groups of ages given. The lowest point for distinctive age of the Philadelphia mortality rates was probably at about age 12, but the rates given are abnormally low for the groups from ages 5 to 20, and abnormally high from ages 20 to 50. The death rate of a group of given ages is, however, affected according as some ages predominate over others. There being no such age predominance in the Northampton order of vitality with the associated life decrement, the death rate in such table of age group 20 to 29, inclusive, is 1.56 per cent., while the death rate of the approximate mean age, 24, is 1.55 per cent.

After an experience of eighteen years, the Pennsylvania Company for Insurances on Lives and Granting Annuities had had no sufficient breadth of personal life risk to settle any question of life insurance or life annuity mortality—two different orders of experience—but there was an official result showing such disparity between the deaths experienced of policyholders and annuitants and the office assumption as warranted proceeding upon an estimate of lower mortality. With respect to annuities, the assumption of a scale of greater vitality was imperative, unless the interest factor should be lowered. A temporary re-rating for insured lives was made in 1831, and tables of values of different annuities decided upon, and the latter were destined to be permanent. The Carlisle hypothesis of life duration was now at hand. Life premiums were reduced generally about 9 per cent. from the original standard. For example, age 35, the original whole-life premium per \$100 insured was \$3.28; by the rating of 1831 it was \$2.99. The rates of 1831, per \$100 insured were, for age 20, \$2.18; age 30, \$2.67; age 40, \$3.40; age 50, \$4.53; age 60, \$6.69, the last a reduction of but 4.43 per cent.

\* Reports of the Philadelphia board of health gave the following figures—excluding still-births from the mortality:—

	Population.	Deaths.	Deaths in 1,000.
1820, . . . . .	137,097	3,189	23.26
1830, . . . . .	188,797	3,948	20.90



The value of the immediate annuity purchase was changed, for example, from 9.95 per cent. annuity at and from age 54, to 8.33 per cent.; age 62, from 11.95 per cent. to 9.95 per cent.; age 69, from 15.15 per cent. to 12.38 per cent. The new annuity scale was 15.54 per cent. immediate annuity at and from age 74, reaching 25 per cent. at age 90. The figures disclose a near approach to Carlisle annuities at 4 per cent. up to age 50. For the elder years there was a growing advance upon the Carlisle values. Present value for \$1 annuity in the Pennsylvania Company, \$4 at age 90, was against \$2.42, Carlisle, 4 per cent. The life premium rating was also at high vitality for the oldest ages.

Nothing was publically known of the assets and liabilities of the Pennsylvania Company, nor did any rule appear by the measure of which its responsibilities should be determined. Obligations under short term life rates were, however, in current liquidation, and the new annuity values were outcomes of the tests of experience.

## CHAPTER IV.

*Philadelphia Mortality, 1831—Asiatic Cholera, 1832—Disease, Age, Colored and Sex Mortalities, 1830-31-32-33—The Cholera and the Insurance and Annuity Ratings—The Experience of the Episcopal Corporation and the Contingencies of its Deferred Survivorship-Annuities—The Corporation proposes Endowments (non-self) and orders Calculation of Undeferred Survivorship-Values—Joseph Roberts's Examples of Survivorship Values—Joint-Stock Life Insurance and the Trust Business—The Capital Stock of the Pennsylvania Company—The Girard Life Insurance, Annuity and Trust Company—The Life Insurance Presentation and Work in 1836—The Earliest Business of the Girard—Its Term Policy—The Carlisle Table and its Mortality Percentages as compared with the Northampton Table—The American Life Insurance and Trust Company of Baltimore—The Pennsylvania Company and Special Rates—It is authorized to execute Trusts and it further reduces Tabulated Life Rates—The Standard Gross Premiums, Carlisle, Four Per Cent. Net—The Life Business in 1837—The Globe Insurance, Life Insurance, Annuity and Trust Company—Death Claims paid by the Pennsylvania Company in 1839—Philadelphia Death Rates, 1840 (age groups), compared with Carlisle Mortality—Sears C. Walker's Wife-Survivorship Annuity-Values—Table for Single Payments for Deferred Annuities in the Presbyterian Corporation—Rates of the Pennsylvania Company, 1844—Children's Endowments—The Girard introduces Quinquennial Reversionary-Bonuses—The Pennsylvania Company grants Credit Dividends (immediate values) to Policyholders—The Mutual Idea—Act incorporating the Mutual Life Insurance Company of Philadelphia. (1831-1844.)*

FOR 1831 the total deaths reported by the Board of Health were 4,939; 475 colored. Such increase over 1830, above what was due to increase of population, had its cause in no manifestation of special disease, diethetic or enthetic, but was distributed among the maladies as classified, with some of them showing less mortality. From 1817 an epidemic marked by suspension of blood circulation, called Asiatic cholera, from its bilious symptoms, had been traversing the globe. The Philadelphia diseases of 1831 showed slight aggravation of diarrhœa, dysentery, and cholera morbus, but the last was named "cholera" in the death reports. In July, 1832, the epidemic appeared, and during the few months of its continuance about 2,500 persons were attacked, including, doubtless, some percentage of cholera-morbus cases. Forty per cent. of the cases had fatal termination. Recorded disease, age, and sex mortalities of 1830, 1831 and 1832 were:—

## DISEASE MORTALITY.

	1830.	1831.	1832.
Bronchitis, . . . . .	46	63	97
Cholera, . . . . .	—	320	—
" infantum, . . . . .	—	—	366
" malignant, . . . . .	—	—	948
" morbus, . . . . .	236	—	73
Consumption of the lungs, . . . . .	615	673	681
Convulsions, . . . . .	287	277	342
Croup, . . . . .	—	—	110

	1830.	1831.	1832.
Debility, . . . . .	316	293	259
Diarrhœa, . . . . .	73	81	172
Dropsy, . . . . .	152 <sup>a</sup>	359 <sup>b</sup>	366 <sup>c</sup>
Dysentery, . . . . .	50	121	78
Fevers, . . . . .	291 <sup>d</sup>	490 <sup>d</sup>	768 <sup>e</sup>
Inflammations, . . . . .	424 <sup>f</sup>	505 <sup>g</sup>	588 <sup>h</sup>
Mania-à-potu, . . . . .	94	110	150
Measles, . . . . .	7	23	118
Old age, . . . . .	63	74	92
Small-pox, . . . . .	86	14	37
Still-born, . . . . .	302	316	274
All other diseases, . . . . .	1,208	1,220	1,180
	4,250	4,939	6,699
Mean annual temperature, . . . . .	52.50° F.	53.00° F.	51.00° F.
Inches of rain, . . . . .	44.75	41.00	39.25

## MORTALITY OF AGE GROUPS.

	1830.	1831.	1832.
Under one year, . . . . .	1,305	1,439	1,521
1 to 2 years, . . . . .	325	444	643
2 to 5 " . . . . .	260	441	689
5 to 10 " . . . . .	139	217	336
10 to 15 " . . . . .	75	74	118
15 to 20 " . . . . .	99	123	142
20 to 30 " . . . . .	508	495	791
30 to 40 " . . . . .	518	559	836
40 to 50 " . . . . .	353	380	599
50 to 60 " . . . . .	267	278	375
60 to 70 " . . . . .	195	220	285
70 to 80 " . . . . .	110	145	218
80 to 90 " . . . . .	70	91	111
90 and above, . . . . .	26	33	35
Total, . . . . .	4,250	4,939	6,699
Total deaths, ages 29 to 49, inclusive, . . . . .	1,379	1,434	2,226

Deaths of 1832 included 706 colored persons, say 44 per 1,000 of such population.

## MORTALITY OF SEXES.

	1830.	1831.	1832.
Male, . . . . .	2,410	2,747	3,706
Female, . . . . .	1,840	2,192	2,993
	4,250	4,939	6,699
Per cent. of female to total mortality, . . . . .	44.4	44.4	44.7

The sex mortality under twenty years of age was, 1831, females, 44.4 per cent.; 1832, 45.8 per cent.

While had there been a general practice of life insurance and annuities, an increase of three deaths for every two previously might have resulted—the higher death ratio, if any, entering into the insurance and annuity account from the epidemic was not shown. The cholera and associated death augmentation do not appear as affecting the rate modifications of the Pennsylvania Company in contemplation. The validity of the life-rate change of 1831 was not assailed by the experience of 1832, but it was an idea of the time, and afterwards, in respect to life insurance premium, to leave such temporary excesses to temporary extra rates; a scheme practicable only with contracts of brief duration, though adjustable when there is a dividend margin in premiums.

<sup>a</sup> Of the brain.      <sup>b</sup> Three forms.      <sup>c</sup> Four forms.      <sup>d</sup> Ten forms.      <sup>e</sup> Thirteen forms.  
<sup>f</sup> Eleven forms.      <sup>g</sup> Twelve forms.      <sup>h</sup> Thirteen forms.



In 1833 the total deaths fell to 4,440: cholera, "malignant," none; cholera infantum, 197; cholera morbus, 9; diarrhœa, 87; dysentery, 44. There was but one death from measles, and small-pox advanced to 156 fatal cases. Mean annual temperature, 52.50° F.; inches of rain, 48.36.

The fund of the Episcopal Corporation had now accumulated to over \$50,000. It had been, and was continuing to be, a growing fund. Of those who could become contributors, the number was not over 75. In 1830 there were only one family of annuitants and five contributors. There had been no test of the doubly deferred annuities of the quintuple plan, with distinctions as to age disregarded. As a crude non-technical conjecture—taking the estimate of mortality that had prevailed—for husband aged 30, paying \$16 per annum to secure \$80 per annum, to be paid to his wife, age 25, etc., in event of his death, there was the following outcome to be anticipated as an average: The *average* man of 30, living for twenty-nine years, would pay, apart from interest, \$464; his wife, as widow at age 55, would receive \$80 for sixteen years, or \$1,280. In event of death of wife, there was a child or children's annuity of thirteen years; taking twelve years as the average of such annuity life, the total so paid would be \$960. All, therefore, depended upon the interest earning, and \$16 per annum compounded at 5 per cent. for twenty-nine years would amount to \$1,047.\* The value of an annuity of \$80 upon a life aged 55, at 5 per cent., was, by the Northampton table, \$750.56; by the new Carlisle table, \$827.76. Present value of twelve years' annuity paid certainly to children, \$709.04. Should a higher vitality be experienced than any here indicated, the longer living contributor might compensate for the longer living annuitant, but the probability was against the male contributor being as long lived as the female annuitant; ages being equal. The initial value of the immediate survivorship-annuity of \$80, as to husband aged 30, wife 25, was, by the method of calculation and the Northampton table, at 5 per cent., \$245.60 (annual payment, \$21.36). Such analysis shows a theoretical surplus in the rate as to the particular instance cited.

In June, 1833, the Corporation acted upon the recommendation of the Diocesan convention, "to revise its Fundamental laws [re-adopted in 1814 by the Pennsylvania body] agreeably to the charter, so as to place it upon the now universally approved principles of societies for granting endowments† and making insurances upon lives."

May 22, 1835, this Corporation authorized a committee "to employ a competent person to prepare a series of tables of annual payments and corresponding annuities and endowments." The computer selected was Joseph Roberts, actuary of the Pennsylvania Company for Insurances on Lives and Granting Annuities. Immediate annuities were agreed upon, and the new rate column for such annuities of the Pennsylvania Company became rates of the Corporation. For life insurance (whole life only) the premium

\* Strictly, an average period comprehending several different years of individual interest growths is not adapted to the geometric increments of compound interest.

† The Corporation adopted the word "endowment" as synonymous with insurance for the eventuality of death. It is probable that the word "endowments" here occurring was a misprint or other mistake—the word annuities being intended.

scale, single and annual, was a close approximation to new rates of the Pennsylvania Company in process of formation. They were equal, at age 50, to the rates of 1831 of the Pennsylvania Company, lower for years younger than 50, higher for years older than 50. Per \$100 insured the single and the annual premium were as follows for these decennial ages:—

AGE.	Single Premium.	Annual Premium.
20, . . . . .	35.60	1.86
30, . . . . .	42.13	2.44
40, . . . . .	49.52	3.24
50, . . . . .	58.20	4.53
60, . . . . .	69.86	7.24
70, . . . . .	80.16	11.69

It was not the purpose to abandon entirely the fifteen-year deferred reversionary-annuities; but for immediate reversionary-liability, Mr. Roberts exemplified values for survivorship of wife for equal ages or ten-year difference of age of husband and wife. Values of the hundred-dollar survivorship annuity were given as:—

Husband's Age.	Wife's Age.	Single Payment.	Annual Payment.
20	20	462.63	24.35
	30	350.88	19.76
30	20	618.13	34.82
	30	471.50	28.10
	40	336.75	21.78
40	30	638.38	41.32
	40	457.75	31.61
	50	293.63	22.67
50	40	648.63	50.09
	50	420.13	35.19
	60	220.25	22.64
60	50	696.75	71.61
	60	399.50	48.16
	70	194.75	29.66
70	60	615.75	93.79
	70	320.88	57.75
	80	142.00	33.57

The vast increase in the estimate of graduated annuity-values was shown by the circumstance that in the beginning of its career the Pennsylvania Company charged, as single payment, nearly \$333 for reversion to wife, aged 35, of \$100 per annum, with husband of age 40. By the analogies of the foregoing computation the single payment, 40–35 years, was about \$550. Such tabulation was never put in practice.

New laws of the Corporation repealed the Fundamental laws of 1814, excepting as to existing contracts; but June 15, 1836, it was enacted “that any clergyman who was a resident in the commonwealth of Pennsylvania on the 22d of May, 1835, and entitled to be a contributor under those laws, may, if he think proper so to do, become a contributor under them, and be entitled to the benefits provided for them, or those of 1835, at his option.” There was thus still left a partial recourse to the quintuple plan, and no table of reversionary annuities at specified ages of husband and wife was yet completed. High as were the rates, as computed by Mr. Roberts, they had the compensation, as compared with the quintuple plan, of including values of the deferred fifteen years of such plan.

The inclusion of "endowments" by the Corporation was suggestive that the life insurance experiment was established in the confidence of an influential portion of the public as practically available for the ends sought to be established by its practice. In New York, Boston, and Baltimore, life policies were issued by joint-stock local companies. The status of life insurance, however, was yet, outside of the Presbyterian and the Episcopal Corporation, that of a business to be followed for the profit of stockholders, excepting that in Boston one-third of the profits of the Massachusetts Hospital Life Insurance Company went to the funds of the Massachusetts General Hospital. Execution of trusts began to be an allied department of the offices, and the sequel showed such business to be better adapted to the financial purpose of the shareholder, insurance being for the policyholder. Up to 1835 the \$500,000 capital stock of the Pennsylvania Company for Insurances on Lives and Granting Annuities was only half paid in, but a call was made upon the shareholders for the unpaid subscriptions in two equal instalments, payable July 16 and October 16, 1835.

July 1, 1835, a Girard Beneficial Association opened an office at No. 32 North Second street. It received deposits, withdrawable at any time without allowance of interest. "Regular" weekly depositors of from \$1 to \$5 were paid 5 per cent. per annum thereon—or after forty weeks such deposits could be converted into stock until the whole amount of stock so appropriated was taken. Three per cent. per annum was given for sums from \$50 to \$100 remaining one to three months. Four per cent. per annum was given for \$5 and upwards remaining three months. For the drawing of such deposits twenty days' notice was required. No interest was allowed for sums under five dollars or any fraction of a dollar. This organization was enlarged in scope, and under a charter approved March 17, 1836, the Girard Life Insurance, Annuity and Trust Company subsequently began; capital, \$300,000 minimum—\$500,000 maximum; shares \$25 each;—the act of incorporation required the minimum capital stock to be paid within two years. Benjamin W. Richards was elected president, and George W. Ash treasurer. John F. James was chosen actuary. First life premiums of the Girard were upon a modified Northampton table basis, or what amounted to such modification, as to age 45 and after; whole-life annual premiums were, per \$100 insured, 16 cents lower for age 21 than the rates of the Pennsylvania Company of 1831; at age 55 they were one cent higher, and the gross single-year premium for age 55 was exactly the death cost, discount being at 4 per cent., of the Northampton table. The Girard announced that—

It will in pursuance of the objects of its charter, make insurance on lives, contract for Endowments, grant and purchase Annuities, and make engagements generally into which the contingency of Life enters. It will receive and execute Trusts, receive Deposits in trust on interest, and receive current Deposits.

1. LIFE INSURANCE.—Persons may effect Insurances with the Company on their own lives or on the lives of others for one year, five, seven, or more years, or for the whole term of life; and the premium may be paid annually or in one sum. In addition to the security afforded by the capital of the Company, the Managers propose to make a reservation from its incomes, and add the same after a term of years to the policies for the whole of life, in the mode to be explained at the office. The following Table shows the rate at which an Insurance may be effected of \$100, at some of the ages, on the life of a person for one year, seven years, or the whole duration of life:—



At the age of	Premium for one year.	Premium for seven years annually.	Premium for whole life annually.
21, . . . . .	1.42	1.48	2.07
25, . . . . .	1.51	1.58	2.24
30, . . . . .	1.64	1.73	2.48
35, . . . . .	1.80	1.91	2.80
40, . . . . .	2.01	2.17	3.20
45, . . . . .	2.31	2.51	3.86
50, . . . . .	2.72	3.00	4.52
55, . . . . .	3.22	3.56	5.33

2. ENDOWMENTS.—A person who desires to provide capital for a son or ward when he shall arrive at the age of 21, or a marriage portion for a daughter, can effect the object with the company.

3. ANNUITIES will be granted or purchased, and they may be immediate or to commence after a stated period, or after the decease of another person.

4. TRUSTS AND DEPOSITS.—As an indemnity to persons having claims on the Company, the Legislature has directed the whole capital to be paid within two years, and has authorized the courts to appoint a competent person to examine into its investments and securities. Under the charter, property may be conveyed to the Company in Trust, and they may execute such Trust in the manner stipulated. Any sum of money may be received in trust upon interest, and disposed of in conformity with the direction of the owner. Certificates of deposit in trust may be issued at the discretion of the Managers.

The special reservation named or proposed was the beginning in the United States of the life insurance dividend, or the participation of the insured in the net earned results, indirectly reducing premium by adding to amount insured.

Previous to the coming of the Girard, the Pennsylvania Company in 1836 re-informed the public of its uses and advantages in these terms:—

THE PENNSYLVANIA COMPANY FOR INSURANCES ON LIVES AND GRANTING ANNUITIES, make all kinds of contracts in which the contingency of life is involved, and receive money in trust, to be improved at interest, for endowments and annuities, payable in a gross sum at some future time, or during the whole life, or any part of the life, of the person for whose benefit the contract is made. The business of the company is of three kinds.

1st. The granting of annuities and endowments where the purchase money accrues to the company in case the annuitant or the endowed dies during the existence of the contract. Contracts of this kind are particularly beneficial to very young persons and those advanced in life.

2d. Where the deposit money, instead of being forfeited to the company, in case of death, is paid over, with the interest accumulated thereon, to the heirs of the party, or to such other person as may be agreed on; or the interest accruing on the deposit will be paid at stated periods during the existence of the contract, and the money deposited at the termination of it. Contracts of this kind are called annuities or endowments in trust, and are a cheap and efficacious way of providing for those where the intervention of trustees are desirable, or where it may be inconvenient for the party to attend to the investment of money. No sum will be received for an endowment or annuity in trust for a less term than three years, unless the party die within that time.

3d. Insurances on lives, where the company contract to pay a sum of money at the death of a person, in consideration of a certain annual premium paid to the company during the life, or any part of the life, of the person insured. This premium will be more or less, according to the age and place of residence of the person insured. Contracts of this kind are similar in principle and effect with insurance on houses, ships, &c., and are desirable in all cases where money will be lost in consequence of the death of a person, or a family left destitute, or without sufficient means for a comfortable subsistence in case of the death of a person on whom it relied for support.

For the terms of the company, enquire at the office, No. 72 South Third street, Philadelphia.

SEARS C. WALKER, Actuary.

There was need to reiterate the simple facts. The subject did not weaken by repetition. An offer rejected on its first or second presentation might be accepted when presented the third or fourth time. The Pennsylvania Company

in 1836 placed first on the list the method of self-interest as being the most efficient factor. Competition, however, would stimulate effort, and in the effort the method of beneficence would be effective.

By the close of January, 1837,—that is, in a period of ten months from commencing,—the Girard issued insurances on the lives of 246 persons. For the month of January the insurances were divided as follows:—

TERM.	No.	Amount insured.	No.	The insured.	No.
One year and over, . . . . .	5	\$5,000 and under.	7	Merchants.	6
Seven years, . . . . .	4	1,000	4	Clerks.	2
Whole life, . . . . .	6	500	4	Clergymen.	1
				Others.	6
	15		15		15

The policy blank of the Girard for a term insurance upon the life of self or another was as follows:—

THE GIRARD LIFE INSURANCE, ANNUITY AND TRUST COMPANY OF PHILADELPHIA.

*Policy of Insurance,*

On the Life of ——— for ———, for ——— years, at an annual premium of ———.  
No.

*This Policy of Insurance Witnesseth,* That whereas ——— being desirous of making an Insurance upon ——— for the term of ——— years, and having subscribed or caused to be subscribed, and deposited with this Company, a declaration setting forth the ordinary and present state of health of the said ——— wherein it is declared that the age of the said ——— did not then exceed ——— years; and having paid to The Girard Life Insurance, Annuity and Trust Company of Philadelphia, the sum of ——— as a consideration for the Insurance of the sum under mentioned, for one year, from ——— one thousand eight hundred and ———.

*Now Know all Men by these Presents,* that in case the said ——— shall happen to die at any time within the term of one year, as above set forth, the said The Girard Life Insurance, Annuity and Trust Company of Philadelphia do hereby covenant and bind themselves well and truly to pay to ——— executors, administrators, or assigns, ——— the sum of ——— within sixty days after due notice and proof of the death of the said ———.

It is hereby agreed that this Policy may continue in force from *year to year*, until the expiration of the term first above mentioned, provided that the said ——— shall duly pay or cause to be paid to the said Company, on or before the ——— next ensuing, the sum of ——— and the like sum annually on or before the day aforesaid; which annual payments shall be accepted at every such period, as a full consideration for such Insurance.

*Provided Always,* and it is hereby declared to be the true intent and meaning of this Policy, and the same is accepted by the said ——— upon these express conditions, that if the above named declaration, upon the faith of which this agreement is made, shall be found in any respect untrue, or in case the said ——— shall die at sea, or shall, without the consent of this Company, previously obtained in writing, pass beyond the settled limits of the United States (excepting into the settled limits of the British Provinces of the two Canadas, Nova Scotia, or New Brunswick;) or shall, without such previous consent, visit those parts of the United States which lie south of the southern boundaries of the States of Virginia and Kentucky; or shall without such previous consent, enter into any military or naval service whatsoever (the militia not in actual service excepted;) or in case he shall die by his own hand, in, or in consequence of a duel, or by the hands of justice, or in the known violation of any law of these States, or of the United States, or of the said Provinces, then and in every such case this Policy shall be null, void, and of no effect, and all previous payments made thereon shall be forfeited to the said Company. This Policy to cease and determine at twelve o'clock, noon, on the ——— which will be in the year one thousand eight hundred and ———.

This Policy not to be assigned without the consent of the aforesaid Company.

*In Testimony Whereof*, The Girard Life Insurance, Annuity and Trust Company of Philadelphia, have caused their common seal to be hereunto affixed, the ——— one thousand eight hundred and ———.

By the Company.

*President.*

*Actuary.*

This Policy shall not become void if the party whose life is insured shall pay the premium at any time within fifteen days after it has become due.

The insured is permitted to travel and visit in the United States, south of the southern boundary of Virginia and Kentucky, from the first day of November to the first day of July next following.

Any person insured, not being engaged in any maritime occupation, is permitted, during peace, to go or travel by sea in any sound sailing packet or steamer, direct from one place to another, situated on the Atlantic Coast, between the Southern boundary of Virginia and the northern point of Nova Scotia.

It is hereby agreed that the annual payment or premium named in the within Policy, may be commuted into ——— payments of ——— dollars, each, payable on the ——— days of ——— in each year, instead of said annual payment. And in case the said ——— shall happen to die in any year of the insurance before the ——— for that year shall have matured and shall have been paid to the said Company, the amount of such payments or payment shall be retained by the said Company, out of the amount of the insurance to be paid; and as a ——— payment only was received on issuing this Policy instead of the full annual premium, the above agreement is to take effect the first year, and this Policy will expire at noon on the ——— day of ——— A. D. ——— unless renewed as above stated and provided for, anything contained in the within Policy to the contrary notwithstanding.

Milne's Carlisle table was now beginning to displace the Northampton table in the calculation of life premiums. The mortality percentages of the two tables compared as follows for the decennial ages:—

	Northampton.	Carlisle.
10, . . . . .	.916	.449
20, . . . . .	1.403	.706
30, . . . . .	1.710	1.010
40, . . . . .	2.096	1.301
50, . . . . .	2.835	1.342
60, . . . . .	4.023	3.349
70, . . . . .	6.494	5.164
80, . . . . .	13.433	12.172
90, . . . . .	26.087	26.056

While the 20 per cent. premium tax of act of April 23, 1829, was a bar to the authorized entrance of other-State companies, the American Life Insurance and Trust Company of Baltimore, with a stock capital of \$1,000,000, appeared in 1836 as an indirect solicitor of Philadelphia life risks, such company naming the locations of its Baltimore and New York offices. Applications, post paid, were to be addressed to the president, Patrick Macauley, Baltimore, or Morris Robinson, vice-president, New York. This company first introduced in the United States single-life premiums by Carlisle mortality, 4 per cent., loaded one-third. Annual uniform rates for each \$100 of insurance at and from the following ages were:—

AGE.	One year.	Seven years.	Life.
25, . . . . .	1.00	1.12	2.04
30, . . . . .	1.31	1.86	2.36
35, . . . . .	1.35	1.53	2.75
40, . . . . .	1.69	1.84	3.20
50, . . . . .	1.96	2.09	4.60
55, . . . . .	2.32	3.21	5.78

By the Pennsylvania Company the life risk was recognized as a varied quantity computable for its different exigencies, and as travellers and distant



sojourners evinced an increasing disposition to avail themselves of the life insurance prudence, it made special terms for travellers by sea and land and residents in foreign countries; such rates, as additions to the normal ones, "varying with the risk." By supplement to the charter of this corporation, approved February 26, 1836, the company was empowered to accept and execute trusts committed to it by persons, corporations, or courts of justice; so acting as guardian, trustee, assignee and receiver, with its capital stock as security for the responsibilities it thus assumed. In the continuance of its business in life contingencies, reduced life premiums were adopted in March, 1837,—the time being rife with financial disaster. The new rates were an approach towards the Carlisle scale of mortality, and the premium charges were for amount insured, according to the annexed percentages:—

At the age of	One year.	Seven years, annually.	Whole life, annually.
20, . . . . .	.92	.98	1.75
25, . . . . .	1.12	1.20	2.05
30, . . . . .	1.32	1.45	2.38
35, . . . . .	1.53	1.70	2.76
40, . . . . .	1.78	1.95	3.21
45, . . . . .	2.05	2.27	3.84
50, . . . . .	2.49	2.82	4.68

Immediately the Girard followed with the same premium rates as the American Life and Trust, of Baltimore, and such premium tabulation became the standard. It was as follows:—

ANNUAL PREMIUM FOR AN INSURANCE OF ONE HUNDRED DOLLARS ON A SINGLE LIFE.

Age next birthday.	Payment for one year.	Annual payment for term of seven years.	Annual payment for life.	Age next birthday.	Payment for one year.	Annual payment for term of seven years.	Annual payment for life.
14, . . . . .	72	86	1.53	41, . . . . .	1.78	1.88	3.31
15, . . . . .	77	88	1.56	42, . . . . .	1.85	1.89	3.40
16, . . . . .	84	90	1.62	43, . . . . .	1.89	1.92	3.51
17, . . . . .	86	91	1.65	44, . . . . .	1.90	1.94	3.63
18, . . . . .	89	92	1.69	45, . . . . .	1.91	1.96	3.73
19, . . . . .	90	94	1.73	46, . . . . .	1.92	1.98	3.87
20, . . . . .	91	95	1.77	47, . . . . .	1.93	1.99	4.01
21, . . . . .	92	97	1.82	48, . . . . .	1.94	2.02	4.17
22, . . . . .	94	99	1.88	49, . . . . .	1.95	2.04	4.49
23, . . . . .	97	1.03	1.93	50, . . . . .	1.96	2.09	4.60
24, . . . . .	99	1.07	1.98	51, . . . . .	1.97	2.20	4.75
25, . . . . .	1.00	1.12	2.04	52, . . . . .	2.02	2.37	4.90
26, . . . . .	1.07	1.17	2.11	53, . . . . .	2.10	2.59	5.24
27, . . . . .	1.12	1.23	2.17	54, . . . . .	2.18	2.89	5.49
28, . . . . .	1.20	1.28	2.24	55, . . . . .	2.32	3.21	5.78
29, . . . . .	1.28	1.35	2.31	56, . . . . .	2.47	3.56	6.05
30, . . . . .	1.31	1.36	2.36	57, . . . . .	2.70	4.20	6.27
31, . . . . .	1.32	1.42	2.43	58, . . . . .	3.14	4.31	6.50
32, . . . . .	1.33	1.46	2.50	59, . . . . .	3.67	4.63	6.75
33, . . . . .	1.34	1.48	2.57	60, . . . . .	4.35	4.91	7.00
34, . . . . .	1.35	1.50	2.64	61, . . . . .	4.53	5.08	7.25
35, . . . . .	1.36	1.53	2.75	62, . . . . .	4.71	5.29	7.55
36, . . . . .	1.39	1.57	2.81	63, . . . . .	4.90	5.50	7.85
37, . . . . .	1.43	1.63	2.90	64, . . . . .	5.09	5.71	8.15
38, . . . . .	1.48	1.70	3.05	65, . . . . .	5.34	5.99	8.55
39, . . . . .	1.57	1.76	3.11	66, . . . . .	5.59	6.27	8.95
40, . . . . .	1.69	1.83	3.20	67, . . . . .	5.90	6.62	9.45

Life insurance showed the least depreciation from the influence of the monetary depression beginning with the panic of 1837. In the panic year, so far as we can gather, there appear to have been issued in the city about three hundred life policies, insuring, approximately, four hundred thousand dollars. At this period, term policies much exceeded the whole-life policies in number—the seven-year policy predominating; children's endowments did not meet with much favor, and survivorship insurance was of rare occurrence.

The Girard Life was somewhat active and persistent in calling public attention to the subject. By an act approved April 10, 1838, it was set forth that "the corporate name of The Berks County Insurance Company be and is hereby changed into The Globe Insurance, Life Insurance, Trust and Annuity Company, and the said company shall have power to establish a branch or principal office in the city or county of Philadelphia." Organization thereunder was proceeded with. Whatever business it did appears to have been as various as the title. In 1839 the Pennsylvania Company for Insurances on Lives and Granting Annuities paid death claims to the amount of \$28,300, and the protection and security of the life policy were a growing conviction.

There was in Philadelphia, according to the United States census of 1840, a population of 258,481—238,200 white, 20,281 colored. Deaths in 1840 numbered 4,949, of which 507 were colored. The general death rate of the white population was, for the year, 18.64 per 1,000 living; that of the colored population 25 per 1,000 living. Total white male population 118,887, total female 126,313; total colored male population 8,316, total colored female 11,965. Females were more numerous than males for all the groups of ages. The sex death rates of 1840, white and colored, were: male, 22.03 per 1,000 living; female, 16.66 per 1,000 living.—Deducting for colored deaths 10 per cent. from the given age deaths, the white mortality at the respective groups of ages, both sexes, appears as follows, the total white deaths so given being ten less than the actual number:—

	Living, Male and female.	Dying.	Death Rate, per cent.	Carlisle, ratio.
Under 5 years, . . . . .	36,830	2,151	5.840	7.906
5 and under 10, . . . . .	26,935	174	0.646	1.018
10 to 15, . . . . .	23,129	73	0.311	0.500
15 to 20, . . . . .	26,312	103	0.391	0.675
20 to 30, . . . . .	53,269	446	0.837	0.760
30 to 40, . . . . .	33,236	451	1.357	1.052
40 to 50, . . . . .	19,131	335	1.751	1.423
50 to 60, . . . . .	10,702	243	2.271	1.841
60 to 70, . . . . .	5,484	209	3.801	4.029
70 to 80, . . . . .	2,408	151	6.271	8.273
80 to 90, . . . . .	651	95	14.593	15.632
90 and above, . . . . .	113	23	20.354	26.443
	238,200	4,454		

By order of the Episcopal Corporation, Sears C. Walker, in 1842, computed a wife-survivorship annuity-tabulation to succeed the quintuple arrangement, which calculation Joseph Roberts had begun upon a different basis. The Corporation was, however, passing from annuities to life insurance. Mr. Walker's scheme ranged for the several years from husband ten years

younger than wife to wife five years older. For reversion to wife of \$100 per annum at death of husband, we cite the following instances:—

Husband's Age.	Wife's Age.	Single Payment.	Annual Payment.
20	20	\$335.17	\$22.76
30	20	435.40	31.08
30	30	366.58	27.32
40	30	480.25	38.09
40	40	383.12	31.97
50	40	523.13	47.63
50	50	380.90	37.10
60	50	617.53	71.80
60	60	401.63	53.87
70	60	599.31	99.16
70	70	358.62	69.09

For husband aged 60, wife 50, the single payment was the highest of the table; for husband aged 70, wife 60, the annual payment was the highest. The lowest single payment was \$286.47—husband aged 68, wife 72; the lowest annual payment, \$21.51, was for husband aged 20, wife 25. We have said that for the original like annuities of the Pennsylvania Company, the single payment, husband aged 40, wife 35, was \$333; by Walker's table it was \$433.26. There was little or no resort to this table.

To secure annuities to aged members the Presbyterian Corporation adopted the following scale of single payments according to age:—

TABLE

*Showing the premium, in Dollars and Cents, to be advanced, at any age from 20 to 64, in order to secure an Annuity of \$100, to commence at the age of 65, and to be continued thenceforward during Life.*

AGE.	Premium.	AGE.	Premium.	AGE.	Premium.
20, . . . . .	80.75	35, . . . . .	167.21	50, . . . . .	367.22
21, . . . . .	85.62	36, . . . . .	175.70	51, . . . . .	388.09
22, . . . . .	89.67	37, . . . . .	184.70	52, . . . . .	408.42
23, . . . . .	93.91	38, . . . . .	194.17	53, . . . . .	431.30
24, . . . . .	98.36	39, . . . . .	204.22	54, . . . . .	455.92
25, . . . . .	103.02	40, . . . . .	214.93	55, . . . . .	482.31
26, . . . . .	107.94	41, . . . . .	226.48	56, . . . . .	510.75
27, . . . . .	113.09	42, . . . . .	238.84	57, . . . . .	541.47
28, . . . . .	118.54	43, . . . . .	251.99	58, . . . . .	575.14
29, . . . . .	124.35	44, . . . . .	265.96	59, . . . . .	613.00
30, . . . . .	130.61	45, . . . . .	280.75	60, . . . . .	656.06
31, . . . . .	137.23	46, . . . . .	296.36	61, . . . . .	705.95
32, . . . . .	144.18	47, . . . . .	312.86	62, . . . . .	761.43
33, . . . . .	150.48	48, . . . . .	330.20	63, . . . . .	822.66
34, . . . . .	159.14	49, . . . . .	348.27	64, . . . . .	889.59

The Carlisle table being now established as the standard mortality rating, the Pennsylvania Company for Insurances on Lives and Granting Annuities accepted, in 1844, as its gross life premium basis, Carlisle 4 per cent. loaded one-third, with some deflections from the standard premiums we have presented. There was no variation for the ages between 23 and 53 inclusive, and for one year the rates were unvaried from 21 to 59 inclusive, and for seven years from 19 to 56 inclusive; for life, from 23 to 53 inclusive. The somewhat and partly lower rates from 14 to 22 and 54 to 61 were as follows:—



## PREMIUMS FOR INSURING ONE HUNDRED DOLLARS.

Age.	Premium for one year.	Annual premium for seven years.	Annual premium for whole life.
14	69	76	\$1.44
15	72	79	1.49
16	76	82	1.54
17	80	86	1.59
18	84	90	1.64
19	88	94	1.69
20	90	95	1.75
21	92	97	1.81
22	94	99	1.87
54	\$2.18	\$2.89	5.46
55	2.32	3.21	5.68
56	2.47	3.56	5.90
57	2.70	4.01	6.13
58	3.14	4.22	6.37
59	3.67	4.44	6.62
60	4.14	4.67	6.88
61	4.28	4.76	7.14

For children's endowments maturing at age 21, there were for insurance of \$100 single premiums as follows, as payable at birth or some particular stage within the minority of the child: Birth, \$25; three months, \$28; six months, \$29; nine months, \$30; one year, \$31; two years, \$33; three years, \$36; four years, \$39; five years, \$42; six years, \$45; seven years, \$48; eight years, \$51; nine years, \$54; ten years, \$57. These figures show very close work for the tenth year as the initial date. Stipulations could be made for the maturing of the endowment at any age, with rate accordingly.

We have indicated that the mutual idea beginning to prevail affected the premium accounting to the individual policyholder. At its inception, the Girard Life, while holding to joint-stock management, recognized its whole-life premium as a provisional arrangement subject to periodical settlement with the premium payer. With the adoption of Carlisle 4 per cent. net rates, loaded one-third, a surplus was still recognized as accruing to the policyholder on whole-life contracts. Term policies were simply a current cost and a finality, *i. e.* a fixed premium. December 27, 1844, a bonus was declared, according to year of issue, by the Girard, on outstanding whole-life policies written prior to January 1, 1842,—sum insured was increased 10 per cent. on all policies continuing from 1836,  $8\frac{3}{4}$  per cent. when continuing from 1837,  $7\frac{1}{2}$  per cent. from 1838, and so reducing for the subsequent years.

The Girard's bonus or dividend was quinquennial, the fraction of the year 1836 in which it did business being added to the following quinquennium in the first bonus-allotment. Its competitor, the Pennsylvania Company, was at the same time considering the propriety or necessity of some concession to its policyholders. Addition to the insurance, with policyholder at advanced age and no medical reëxamination, was deemed objectionable; further, there was an augmentation of liability, and no legal standard of reservation charging the corporation with the net value of the policy had yet been created. An immediate value, instead of a reversion, was decided upon—the value being, however, in the way of precaution or convenience, a credit, instead of an immediate payment; and so, January 1, 1845, it was decided that thereafter

"all premiums for one or more years shall entitle every policyholder to a credit of one-half the profits; certificates of estimated profits to be issued every five years, or oftener, at discretion of the board of directors, such certificate to bear 6 per cent. interest." There was thus an equal division of presumed earnings between the policyholders and the stockholders arranged for as circumstances should determine, establishing a mutuality of interest in the earnings between the two bodies; and the absolutely mutual life insurance company had not yet appeared in the city, though the mutual idea was now rife\* as to all insurance.

An act incorporating the Mutual Life Insurance Company of Philadelphia was approved April 23, 1844, but there was no organization thereunder. The business was recognized as one of grave responsibility, moral and financial, and there were few if any persons who understood the proper manner of conducting it. At least the stock capital was a pledge of good faith. The following were features of the Mutual Life charter of April 23, 1844:—

SEC. 2. Gives power to insure lives of members and others, "and to make all and every insurance appertaining thereto, or connected with life risks of whatsoever kind or nature, and to grant and purchase annuities. . . ."

SEC. 3. All persons insuring, and their legal representatives become members.

SECS. 7, 8. All persons insuring must pay such premiums as fixed by the trustees, and no premium can be withdrawn, but must be liable for all losses and expenses.

SEC. 13. At expiration of first five years, and during first thirty days of each subsequent period of five years, a balance shall be struck of the affairs of the Company, charging each member with his proportionate share of the losses and expenses, and crediting him with an equal [according to premium paid] share "derived from the investments and earnings in proportion to the the said amount." . . . . . Provides for forfeiture if default of payment of any premium or "any periodical payment due from him to the Company."

. . . . .

SEC. 14. Statement of business; how to be made.

SEC. 15. Business to be carried on in Philadelphia.

SEC. 16. No policies to be issued until \$100,000 insurance applied for. Trustees can purchase policies or other obligations of the Company for the benefit of the Company.

SECS. 17, 18. Married women may insure husbands' lives for their own use and free of creditors' claims, "but such exemption shall not apply where the amount of the premium annually paid shall exceed \$300." In case of wife's death before husband, said insurance may be made payable to children, or to their guardian.

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\* The Mutual Life, of New York, began business in February, 1843, and the New England Mutual, of Boston, in December following.

## CHAPTER V.

*The Life Insurance Solicitor—Other-State Life Insurance Companies at Camden, N. J.—The National Loan Fund Life Assurance Society of London—Some of its Stipulations and Rates—The Accumulations of the Pennsylvania Company—The Penn Mutual Life Insurance Company organized—Its Organic Character and Charter Regulations—Its Premium-Payment Regulations, Profit Scrip and Credits, and Rules of Risk Acceptance—Its Forms of Application, Interrogation and Certification—A Controversy—The Equitable Life Insurance, Annuity and Trust Company of Philadelphia—Harvey G. Tuckett—His Programme for the Equitable—The Combined Experience Table—How it compared with the Carlisle Table—Tuckett's Whole Life Premiums—His Estimate of Associated Death Occurrence and Vital Depreciation—His Half-Credit Premiums—Conditions of Equitable's Policy—Tuckett's Annuities, Male and Female Lives—Business of the Penn Mutual—The Equitable's Rates for the California Gold Adventurers of '49—The Life and Health Insurance Company and its Life Premium Adoptions—Dissensions in the Equitable and a Change in Administration—Other-State Life Insurance Companies licensed to do Business in the State—Cholera Asphyxia—The American Mutual Life, of New Haven. (1845-1849.)*

WITH the inducements "to be insured," noteworthy instances were occurring and recurring wherein the life policy appeared as a saving mercy in the presence of disaster, as a blessing mitigating sorrow, as well as suggestive of the means whereby prudent forethought could make a secure way through many of the uncertainties of life. Still, though resting upon a better calculation and a higher sentiment than the other writings, it lacked, with some exceptions as in case of a creditor and the self-endowment lost by death, the direct commercial arguments and needs of the others. In its aspects of beneficence it was like the introduction of a standard of honor, integrity and virtue, beyond the moral capabilities of a community. It asked, in its highest purpose, something of self-denial, something of repression of the lower elements of selfishness. Further, it was beyond the reach of poverty; it was as stone to him who was wanting bread; it was *apparently* a superfluity where there was great wealth; yet it was a great *need* of a large part of the people, however few they might be who were duly conscious of such need. Yet, withal, the opportunity was enlarging as if family ties were strengthening. The first office had shown that here and there a person, of his own volition, would seek a life policy; it was a just inference that, with a large number of persons, the willingness and ability so to do fell just short of performance, and they were many who, once awakened to a consciousness of their position, would act. There was thus occasion for the employment of persons to make direct personal appeal to those indifferent as to their need of the life policy, and as companies began to compete, such persons were sent forth to explain and to urge, with each especially enforcing the claims of the particular office he represented.



Unlike the early marine broker, who procured both the subject for insurance and the insurer as his own private business, the life insurance solicitor was almost exclusively an envoy of a company. He was not welcome, but he came when the time for him had come. If looked upon as something of an intruder, his intrusion was often followed with results that made tears of thankfulness the sequence. He became strangely informed as to the phases of human character. He coned well in his solicitation the difference between the mood and the man. He knew the present rejection came out of to-day, and could be changed to-morrow. He might be greeted as would be a christian missionary in a heathen land,—no matter,—he preached his gospel, worked it; and sometimes, the scoffing forgotten, it was said he saved.

Life insurance illusion was, however, growing with life insurance practice, and trade competition outside of Philadelphia was dealing in promises beyond the limits of performance; and such lures offered in the city, directly or indirectly, were attractive. Pennsylvania was yet forbidden ground to the non-State insurance corporation, but as insurance is essentially diffusive, the city was now approached *via* Camden, N. J., giving to the insured Philadelphian the benefit of a New Jersey contract. An English experiment called the National Loan Fund Life Assurance Society, which began in London in 1837, had, in December, 1844, an "agency" at 68 South Fourth street, Philadelphia, and its branch office at the corner of Second and Plum streets, Camden; William Peter, general agent and manager for New Jersey, Pennsylvania, Ohio and Kentucky. The New York branch office issued thirty-two policies in January, 1845. A Philadelphia daily journal of the date of August 21, 1845, printed the annexed communication respecting this project:—

#### LIFE INSURANCE.

I noticed in the *Inquirer* of August 2, some excellent remarks on the importance of Life Insurance and the necessity of paying strict attention to the security offered by the insurance companies for the payment of losses. There should be a large capital paid in, and a highly responsible Board of Managers. These conditions are united in the National Loan Fund Life Assurance Society of London, which has branches in this country within the reach of all citizens who may choose to avail themselves of its superior advantages. The capital is \$2,500,000, a part of which is lodged in this country, under the control of an American Board of Managers. It offers an additional guarantee of honest intentions, in the liberal provision by which the assured may always borrow an amount of the premium paid in, not exceeding two-thirds of the whole amount. This provision is of very great importance to persons of limited income. . . . .

This company also allows the assured to participate in the profits of the business. The central office is in New York, under the management of a Board of Directors composed of gentlemen of the highest character in the commercial circles of that city. Mr. Grattan, the British Consul at Boston, is the agent for Massachusetts, and our own citizens can obtain full information respecting the company, and transmit proposals for life insurance, by applying to Mr. Peter, the British Consul for Philadelphia, at the Consulate, No. 68 South Fourth street.

#### SAFETY.

The National Loan introduced an endowment payable at age 60. It was ahead in the "liberal" features, gave thirty days' grace to premium payers, divided two-thirds of the "profits" annually after the first five years among the insured for life, and its loan, returning a large part of the premium, was an anticipatory surrender-value of policy. Its rates compared with those of the Girard Life as follows, per \$100 insured:—

	GIRARD.		NATIONAL LOAN.	
	One year.	Life.	One year.	Life.
Age 15, . . . . .	77	\$1.56	78	\$1.48
20, . . . . .	91	1.77	87	1.68
30, . . . . .	\$1.31	2.36	\$1.21	2.22
40, . . . . .	1.69	3.20	1.61	2.94
50, . . . . .	1.96	4.60	1.95	4.21
60, . . . . .	4.35	7.00	3.74	6.68

Officers of the United States navy, for permission to proceed to any station excepting on the coast of Africa, were charged a premium of one per cent. per annum on amount insured, as an addition to the general life rate—the extra premium not being a mere voyage rate, but commencing with the commencement of the policy.

In November, 1846, a Philadelphia board of directors was advertised.

By January 1, 1847, it was shown that the Pennsylvania Company had accumulated \$333,763.33 above its capital stock of \$500,000. The dividends on the capital stock had ranged at 6 per cent. per annum—life insurance net gains being seemingly absorbed by the annuities issued on the first scale of mortality adopted.

Mutual life insurance began for Philadelphia with an act approved February 24, 1847, providing for the organization of the Penn Mutual Life Insurance Company—company composed, by Section 4 of incorporating act, of all persons insured in it; also their heirs, administrators, executors, and assigns.

SEC. 8. At the elections for trustees, each insured member for any sum paid in or secured as a premium of insurance to said company, during the year preceding said election, amounting to twenty-five dollars, shall have one vote, and for every additional fifty dollars so paid, one other vote.

SEC. 9. Every person who shall become a member of this corporation, by effecting insurance therein, shall, the first time he effects insurance, and before he receives his policy, pay the rates that shall be fixed upon and determined by the trustees; no member shall be liable for any losses or expenses of said company, beyond the amount of premium which he may agree to pay said corporation.

SEC. 13. Suits at law may be maintained by said corporation against any of its members, for any cause relating to the business of said corporation; also suits at law may be prosecuted or maintained by any member against the said corporation for losses by death, if payment is withheld more than three months after the company is duly notified of such losses; and no member of the corporation shall be debarred his testimony as a witness in any case, on account of his being a member of the said company; and no member of the said corporation, not being in his individual capacity a party to such suit, shall be incompetent as a witness in any such suit, on account of his being a member or an officer of said company.

SEC. 14. The officers of said company shall, on the first Monday in January of every year, cause a statement to be made of the affairs of the company, and a balance to be struck of the profit and loss account; and if there is a surplus, after paying all losses and expenses of the said company for the year preceding the same, they shall credit each member with such a proportion of said surplus as the premiums paid by him, her or them on risks determined, may be to the aggregate amount of the premiums earned during said year by the company.

SEC. 15. And in case of the death of any member of the said company, the amount standing to his credit at the time of his death, together with the amount of the policy in his name, shall be paid over to his legal representatives or assignees, within sixty days; the profits and accumulation standing to the credit of such persons as have ceased to be members by non-payment of premiums, or a renewal of their policy, agreeably to the by-laws of the company, shall be forfeited for the use of the corporation.

SEC. 16. Within thirty days after the first Monday in January of each year, it shall be the duty of the officers of the company to cause to be made and printed, in at least one



daily newspaper published in the city of Philadelphia, a general balance statement of the affairs of the said company, and deliver to each member, upon request, a copy thereof. Such statement shall contain:

- I. The amount of premiums received, and the amount derived from interest on loans or investments during the same period.
- II. The amount of the expenses of the company during the said period.
- III. The amount of losses incurred during said period.
- IV. The balance remaining with the said company.
- V. The nature of the security on which the same is loaned, and the amount of cash on hand.

SEC. 17. The business of the corporation shall be carried on at such place in the city of Philadelphia as the trustees shall direct, and at such agencies as they may establish.

SEC. 18. No policy shall be issued by said company until application shall be made for insurance of sums on lives amounting, in the aggregate, to \$100,000 at least; and the trustees shall have the right to purchase, for the benefit of the company, all policies of insurance, or other obligations, issued by the company.

SEC. 19. It shall be lawful for any married woman, by herself and in her name, or in the name of any third person, with his assent as her trustee, to cause to be insured, for her sole use, the life of her husband for any definite period, or for the term of his natural life; and in case of her surviving her husband, the sum or net amount of the insurance becoming due and payable by the terms of the insurance, shall be payable to her, and for her own use, free from the claims of the representatives of her husband or any of his creditors.

SEC. 20. In case of the death of the wife before the decease of her husband, the amount of the insurance may be made payable, after death, to her children, for their use, and to their guardian, if under age.

SEC. 21. If any trustee or officer of said institution shall fraudulently embezzle, or appropriate to his own use, or to the use of any other person or persons, any money or other property belonging to the said institution, or left with the same as a special deposit, or otherwise, he or they, on conviction thereof, shall be fined in a sum not less than the amount so appropriated or embezzled, and sentenced to undergo an imprisonment in the Eastern penitentiary, to be kept in separate and solitary confinement, at labor, for any term not exceeding two years, at the discretion of the court: *Provided*, That this shall not prevent any person or persons aggrieved from pursuing his, her or their civil remedy against such person or persons.

The twenty-seven trustees named in the first section of the act of incorporation entered upon their duties in the manner provided—one-third at first for one year, one-third for two years, and one-third for three years. Daniel L. Miller was elected president, William N. Clark vice-president, and John W. Hornor secretary. Five standing committees were constituted, respectively, on Claims, Accounts, Finance, Premiums, and Trusts. The company was ready for business in May. The policy phraseology in vogue with the stock companies was unchanged, excepting as to phrases called for by the part-credit system. With premiums payable optionally in quarterly or half-yearly instalments, the Carlisle rates were increased in ratio 10 per cent. for one-year and seven-year policies for all ages; life policies, payable quarterly or semi-annually, had in the earlier ages an increase of 10 per cent. on the annual premium ratio, but such rate of increase was gradually lowered as age advanced; was 5½ per cent. at age 50, not quite 5 per cent. at 60, etc.

The board of trustees adopted the following rules and regulations, by which the company effected insurance on lives:—

#### ARTICLE XIII OF THE BY-LAWS.

Every person insuring with this company shall, before receiving the policy, pay one dollar therefor, and the amount of premium which shall be agreed upon in either of the following forms.



- 1st. The premium for the whole life may be paid in one cash payment.
- 2nd. In an annual cash payment.
- 3rd. In quarterly or half-yearly payments.
- 4th. By paying fifty per cent. in cash, and fifty per cent. in a note at twelve months, bearing interest at the rate of six per cent. per annum, subject to assessments if required, the interest to be paid punctually, but no note to be taken for a less sum than fifty dollars.

The premiums on all policies for one and seven years to be paid in cash.

At the end of every year, should the losses of the Company in that year fall short of the losses called for by the Carlisle tables of mortality, the Trustees shall pass to the credit of the sinking fund a sum equal to the deficiency, and the sinking fund so created shall be applied to the payment of losses which shall occur in any year over and above those called for in said tables, and when the sinking fund exceeds \$100,000, the Board of Trustees may, if they deem it expedient, divide the excess beyond that sum as profits. The nett profits shall then be credited *pro rata* to all the assured according to their cash payments, and scrip shall be issued for said profits to all who have paid their premiums in cash, and to those whose notes are held by the Company the profits shall be credited on the books of the Company, the scrip so issued and profits so credited, when amounting to ten dollars, shall bear interest, payable annually in cash, at a rate to be decided by the Board of Trustees, but no interest shall be allowed on fractional parts of ten dollars. The rate of interest shall never exceed the average rate received by the Company for their investments. No certificates of scrip shall be issued for any less sum than ten dollars, nor for any fractional part of ten dollars; the said certificates shall not be transferable, except upon the books of the Company, and only by the person in whose name the same appears, or by his or her duly authorized attorney or legal representative. No transfer shall be made or certificate issued until the certificate originally issued to the transferer be surrendered and cancelled, nor until such evidence of authority to transfer be deposited with the Company as may be satisfactory to the officers thereof. The books for the transfer of said certificates shall be closed thirty days immediately preceding the day appointed for balancing the general accounts of the Company.

A failure on the part of the insured to pay the interest or assessment on a premium note thirty days after such interest or assessment becomes due, shall forfeit the policy, together with all moneys previously paid by the assured, to the use of the Company.

This Company will Insure at reasonable rates, the Lives of Military and Naval Officers, of Seafaring men, and of Persons desiring to visit any part of the world.

#### MODE OF EFFECTING INSURANCE.

By the rules of this Company, no risks are taken but those on the lives of persons in good general health and of sound constitutions, satisfactory evidence of this must be produced to the Company before a policy can be granted; for this purpose a printed form has been prepared, containing a set of Questions and the necessary declarations to be made, preparatory to effecting Insurance.

Persons desirous of effecting Insurance with this Company will be furnished with the forms of Application by applying at the Office of the Company, where any information with respect to Mutual Life Insurance, or the mode of Insurance by this Company, will with pleasure be given.

The annexed documents are the Set of Questions to be answered by the Applicant, and the Certificate of his or her Physician.

#### PARTICULARS REQUIRED FROM PERSONS PROPOSING TO EFFECT ASSURANCES WITH THIS COMPANY.

1. Name, Residence and Occupation of the Party on whose behalf the Assurance is proposed.
2. Name, Residence and Occupation of the Party whose Life is proposed to be assured.  
If a married female or widow, state also her maiden name.
3. Place and date of Birth.
4. Is the Party, whose Life is to be Assured, married or single?
5. Are the general habits of life of the Party regular and temperate, or otherwise? Are they active or sedentary?
6. Has the Party ever been afflicted with any disease or injury likely to impair the constitution or to shorten life? If so, state what disease or injury.
7. Is the Party liable, through hereditary influence, to any serious disease? If so, name the disease.

8. Has the Party been vaccinated or had the Small Pox?
9. Is the Party now in good health and generally healthy, and free from the influence of any circumstance which tends to shorten life?
10. Has the Party resided in a tropical or otherwise unhealthy district of country, at any time within the last ten years? If so, where, and for how long a period, and with what effect upon the health?
11. Is there any other information respecting the health and habits of the Party with which this Company ought to be made acquainted?
12. Name and Residence of the Party's usual Medical Attendant. If he or she have none, then the Name and Residence of some Friend or Physician, to be referred to for information as to the Health, etc., etc.
13. Sum to be Insured.
14. Term for which the Assurance is required.

I do hereby certify and declare that the age of the above-named ——— does not exceed ——— years, and that ——— is now in good health, and doth ordinarily enjoy good health; and that in the above Proposal I have not withheld any circumstance or information with which the said "Penn Mutual Life Insurance Company" ought to be made acquainted, touching the past or the present state of health or habits of life of

And I do hereby agree that this Declaration, and the above Proposal, shall be the basis of the Contract between me and the said "Penn Mutual Life Insurance Company;" and if any untrue or fraudulent allegation be contained herein, or in the above Proposal, all moneys which shall have been paid on account of such Insurance shall be forfeited to the said Company, and the Policy of Insurance made on the faith of this Declaration, and the above Proposal, shall become null and void, and of none effect.

*In witness whereof*, I have hereunto subscribed my name, dated this ——— day of ———, 18 .

Witness Present: }

*Persons making an Insurance on the Life of Another*, must sign the following:—

I hereby certify and declare that I have an interest in the Life of the abovenamed ——— to the full amount of the sum mentioned to be insured.

QUESTIONS TO BE ANSWERED BY THE PHYSICIAN OR FRIEND NAMED IN ANSWER TO QUESTION 12.

1. How long have you known ———
2. Have you seen and attended ——— frequently? If so, for what complaint, and how long since?
3. Is ——— temperate in ——— habits of life? Active or sedentary?
4. Is ——— exposed, by hereditary influence, to pulmonary or other serious diseases?
5. Has ——— at any time been afflicted with Insanity, Apoplexy, Palsy, Convulsions, or other serious derangement of the nervous system; with Scrofula, Affection of Lungs, Heart, or other important organs; with Aneurism, Rupture, or any other disease that either is or may become dangerous, or may leave the general health in a precarious condition?
6. Do you believe that ——— health is good at present, and that ——— possesses a sound constitution?
7. Are you aware of any peculiarities or particular circumstances not alluded to above, that may tend to shorten ——— life, or render its duration unusually uncertain?

The first policy of the Penn Mutual was issued May 20, \$5,000, whole life, and insurance continued until death. Same day, the second policy, also \$5,000, was issued.\* About twenty policies per month was the average of the first year. With this new element in the life insurance practice, there was sufficient to induce competition for business and controversy as to methods. One against

\* Of the insurants under the first thousand policies issued by the Penn Mutual, twenty-two were living and insured August, 1883, with ages from 80 to 90, both inclusive. There were, at same date, the same number (22) of living policyholders with ages 61 to 79, both inclusive, who were insured in the company's first year.



the other, the Pennsylvania Company and the Girard Life abated their conservatism as to requiring sixty days after proof of death before paying claim under the policy. In the summer of 1847, notes as life insurance premium and life insurance assets began to be riddled by verbal shots from one or more newspapers. An arraignment of such credits by the Boston Chronotype was reprinted in pamphlet form by the Pennsylvania Company. It was contended that "if the premium has been partly paid in notes, they come to the representatives of the insured as a part of the benefit insured, and just so far as they do, the insurance was no insurance at all." This was rather an unfortunate *non sequitur*, for if the half note premium enabled the applicant to double his insurance, as compared with all cash, the average dying policyholder would have claim on a double policy sum, minus simply the amount of his notes, and so there would be a net gain coming to "the representatives of the insured." There was, perhaps, better argument in the sarcasm saying, "Mutual life insurance on the premium note system is only a mutual attempt among a number of partially empty bags to stand up as if they were full." This was at least lively, and people began to be stirred up as if there were something really interesting in the subject. A correspondent, on behalf of the Penn, exalted its method, and did not exalt the premium extortions of the joint-stock practice even when mitigated with the Pennsylvania Company's "own mutual insurance." There being a large supposed superfluity in the full premium charge, "If," said Truth for the Penn, "a subscriber pays to the company \$50 in cash on a policy of \$5,000, and gives a note for the remaining \$50 at twelve months, with interest—the condition being that a failure to pay the note involves a forfeiture of the policy and the loss of the amount previously paid—it is manifest that the company runs no risk, and that in any event it is either sufficiently protected or profits largely by the forfeiture of the policy and the portion of the premium paid. It is the *insured* who loses by failure to pay, and not the company."

With a dignity born of the thirty-four years of the company's history, H——, for the Pennsylvania Company, looked down on the contrivance of yesterday, explored rather disdainfully the contradictions of Truth, and seemed to hold semi-annual and quarterly premiums as a kind of credit amply sufficient for the desired convenience of payment.

Perhaps the dispute was of service as an advertisement. It neither grasped the subject it attempted, nor even suggested that the note was a question of account rather than a question of value—a question of reflux to the maker without cost to the all-cash payer. What the note could do in the way of offset, wholly or partly, to any of the respective divisions of the tripartite premium, was a testing point not touched. That, however, was matter for the future. As life insurance practice began to be revealed, a great many crude notions respecting it were shown as prominent in its affairs.

An Equitable Life Insurance Company was incorporated March 28, 1848; public notice was given that books would be opened at the Exchange for subscriptions to the capital stock May 10 and 11. By the charter, letters patent were to be issued upon subscription to 500 shares, and \$5 per share



paid in. Announcement was soon made of the "Equitable Life Insurance, Annuity and Trust Company; capital \$250,000, \$25 per share. Instalments, \$10 per share. President, John W. Claghorn; vice-president, Peter Cullen; treasurer, F. W. Rawle; secretary and actuary, H. G. Tuckett."

The secretary and actuary here named was an exile rather than an emigrant from England. He was the Captain Harvey G. Tuckett who, September 12, 1840, had been wounded in a duel with the Earl of Cardigan. Tuckett's mathematical acquirements were part of his military education. An adventurer by the force of circumstances, he had drifted into the investigation of life insurance theories and practices. He asserted himself as a proficient in connection with the subject, and maintained his assertion in his time against all gainsayers.\*

Tuckett arranged an elaborate programme for the Equitable. He was opposed to the mutual system, and set about to counteract it. Against premium notes he introduced the half-credit system of English offices—substantially a five-year term insurance, convertible into a whole-life policy at the expiration of the term, with the unpaid half of the premium then treated as having been deferred; settlement not being then made, the unpaid sum remained as a charge against the policy, increasing by interest, and to be deducted when the policy became a claim. Premiums were by a uniform, ascending or descending scale, to be paid yearly, half-yearly, or quarterly, during the continuance of the policy, or payment could be restricted to a term of years. Joint lives, endowments, and survivorships were included in the purpose of the project—also immediate, deferred, and contingent annuities. It was further proposed to hold estates or money in trust, and to grant accumulated deposit policies. In accordance with the charter, married women and female children could insure the lives of husbands or parents, free of the claims of representatives or creditors of husband or parent. Sickness benefits were also provided for, and the burial-fund provision of English Friendly societies was enlarged to an insurance of from \$50 to \$200, to be paid immediately on death. A practical man would have soon made up his judgment that here was a project too broad in its scope for the organization, as constituted, to work.

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\* There is a story told in the *Atlantic Monthly*, of March, 1868, which makes the duel between that "grand old gentleman, scholar and soldier, Captain Harvey G. P. Tuckett, lately dead," and James Thomas Brudenell, seventh earl of Cardigan, taking place September 12, 1840, on Wimbledon Common, the result of a third challenge, Tuckett being the challenged party in the last instance, but twice previously the challenger. Tuckett, it is said, had resigned his commission to remove Cardigan's objection to fighting with one of his own officers. At the meeting, upon the second fire, Tuckett was shot in the hip. The prosecution which was begun against all the parties engaged, principals and seconds, was deferred, owing to the limitation in the jurisdiction of the judges of Old Bailey, Cardigan pleading his right to have his offence inquired of, and passed upon, by his peers. The court thereupon determined not to try the others until the guilt or innocence of the earl had been established. February 16, 1841, the earl was arraigned before the House of Lords, with all the surroundings of a gorgeous spectacle, and the noble defendant was declared not guilty.

"From a remark made by the learned attorney-general, in his address to the lords, Captain Tuckett was led to believe that the prosecution against him would be relentlessly pressed; this induced him to flee the country, which he did, hastening his departure for America."

"This strange couple [Harvey and Margaret Tuckett] lived in a tawdry boarding house on Walnut street, [Philadelphia.] . . . But hundreds of people who never exchanged a word with him felt themselves drawn towards the old man by a feeling of personal friendship, through causes which they could not explain. They knew his name, knew, in a measure, the record of his life as a soldier, and maybe dimly knew the story of his exile; and so, as from afar off, they were his friends."

The actuary of the Equitable had some doubts as to the life decrement of the Carlisle table being equal to the death rates of the population within the territorial limits generally embraced in the application of the American life policy,\* but his faith in the permanence of current rates of American interest earnings on capital was unclouded. Whatever might have been the conjectures, or whatever might have been the actualities, as to a special life insurance mortality distinct from the order of death in general population, such conjectures or actualities had been rather set aside than upheld by recent professional computation.

A committee of actuaries, representing nine English life offices, had constructed a table deduced from 62,537 life insurances, with both town and country experience. This was published in 1843, and became known as the Combined Experience or Actuaries' table. On the question of vitality the "new rate of mortality" was in substantial accord with the Carlisle, though beginning to hasten death at age 39; but its improved graduation corrected defects in the death percentages of the respective ages, and in the calculation of premiums for portions of life such age differences made important variations in the result. The differences in average after-life duration and in the death percentages of ages are indicated by the following limited comparison:—

AGE.	EXPECTATION OF LIFE.		DEATH PERCENTAGES.	
	Carlisle.	Adjusted or Combined Experience.	Carlisle.	Adjusted or Combined Experience.
10, . . . . .	48.82	48.36	0.448	0.676
20, . . . . .	41.46	41.49	0.706	0.729
30, . . . . .	34.34	34.33	1.010	0.843
40, . . . . .	27.61	27.28	1.300	1.036
50, . . . . .	21.11	20.18	1.342	1.594
60, . . . . .	14.34	13.77	3.349	3.034
70, . . . . .	9.17	8.54	5.165	6.493
80, . . . . .	5.51	4.78	12.172	14.040
90, . . . . .	3.28	2.11	26.056	32.373

The new tabulation, in having its radix at age 10, was in agreement with the Carlisle undulation which made age 10 the limit of infantile mortality as decreasing in annual ratio from birth. Assuming the Combined Experience to be the nearest approach yet made to the great law by which man goes hence in the appointed order of his going, the fact was disclosed that even with the mortality reduced from the Northampton to the Carlisle scale, the companies were yet charging for 1.67 deaths too many for a thousand lives of age 30; yet such difference did not equal the greater technical defect, somewhat apparent before the new table came, in which, with ten thousand persons

\* Prof. McCay, from interments in the city of Baltimore from 1826 to 1848, with the exception of two or three years, one of these being 1832, the cholera year, deduced the following expectations of life for decennial ages, as compared with Carlisle expectations:—

AGE.	YEARS.		AGE.	YEARS.	
	Baltimore.	Carlisle.		Baltimore.	Carlisle.
Birth, . . . . .	36.9	38.7	50, . . . . .	19.3	21.1
10, . . . . .	46.4	48.8	60, . . . . .	14.6	14.3
20, . . . . .	35.4	41.5	70, . . . . .	10.1	9.2
30, . . . . .	29.0	34.3	80, . . . . .	7.1	5.5
40, . . . . .	23.9	27.6	90, . . . . .	5.0	3.3

of age 40 and ten thousand persons of age 50, the difference in annual death was but 4.14 persons, and the new proposition made the difference 55.77 persons! Still the Carlisle was as yet holding its way against the Combined Experience, and largely for prudential reasons. With premiums calculated upon the basis of the maximum duration of life, even with the difference in *annual* death costs, Carlisle and Combined Experience premiums for whole life were close approximations to each other: For example, interest 4 per cent., loading one-third, insurance \$1,000—age 20, Carlisle, \$17.58; Combined Experience, \$17.27;—age 40, Carlisle, \$31.67; Combined Experience, \$31.57.

It being now accepted that the established whole-life premiums contained a margin for return premium to the policyholder, Actuary Tuckett proceeded to eliminate the presumed margin for dividend to policyholders from the new rates for the Equitable, and the following reduction of from about 7 to 17 per cent. from the standard scale of mutual whole-life rates was the result:—

TABLE OF PREMIUMS FOR INSURANCE OF ONE HUNDRED DOLLARS FOR WHOLE TERM OF LIFE.

AGE.	Premium.	AGE.	Premium.	AGE.	Premium.
16, . . . . .	1.50	31, . . . . .	2.09	46, . . . . .	3.36
17, . . . . .	1.53	32, . . . . .	2.15	47, . . . . .	3.49
18, . . . . .	1.56	33, . . . . .	2.20	48, . . . . .	3.62
19, . . . . .	1.59	34, . . . . .	2.27	49, . . . . .	3.77
20, . . . . .	1.60	35, . . . . .	2.33	50, . . . . .	3.94
21, . . . . .	1.63	36, . . . . .	2.40	51, . . . . .	4.13
22, . . . . .	1.66	37, . . . . .	2.47	52, . . . . .	4.32
23, . . . . .	1.69	38, . . . . .	2.54	53, . . . . .	4.51
24, . . . . .	1.72	39, . . . . .	2.63	54, . . . . .	4.71
25, . . . . .	1.76	40, . . . . .	2.70	55, . . . . .	4.91
26, . . . . .	1.85	41, . . . . .	2.81	56, . . . . .	5.12
27, . . . . .	1.89	42, . . . . .	2.92	57, . . . . .	5.33
28, . . . . .	1.94	43, . . . . .	3.01	58, . . . . .	5.54
29, . . . . .	1.98	44, . . . . .	3.12	59, . . . . .	5.78
30, . . . . .	2.04	45, . . . . .	3.23	60, . . . . .	6.30

Subsequently and incidentally a kind of explanation of this premium construction was given by the calculator, which explanation is something of a curiosity. It was as follows:—

The lowest rate which can be used at 30 years of age is  $\$2\frac{4}{100}$  per \$100, and this can only be adopted by a Proprietary Office with a large *actual paid up capital* to meet the extra claims in the early years of the Office.

This premium of  $\$2\frac{4}{100}$  will allow deaths, per table, . . . . . .60  
Deterioration, . . . . . . . . . . . . . . . . . \$1.29  
For expenses, . . . . . . . . . . . . . . . . . .15 or 7½ p. c.

The extra expenses, until the amount of the premiums is sufficiently large, *must* be paid BY CAPITAL, and it is this early assistance to premiums by capital which gives capital a legitimate claim at a future period for a profit from Premiums. . . . . The value of deaths, and the deterioration of life, are fixed by tables of mortality, the result of extensive statistical inquiry carried on through the nations of Europe for one hundred and sixty-three years; these two items therefore, death and deterioration of life, must remain the same, whatever the nature of the Company, whether Proprietary, Mutual or Mixed, and the *pro rata* for them is beyond the reach of speculation or speculators. These two items have been shown to be the first  $\frac{60}{100}$  for deaths in the current year, and the latter  $\$1\frac{29}{100}$  for future deterioration and nett value of policy: together one dollar and eighty-nine cents.



It would therefore seem that while the gross premium was reduced the net premium was enhanced, any deficiency in the margin for expenses to be met by capital. But it would require the expenditure of millions before the business could reach the proportions where "7½ per cent. for expenses" would be adequate, and the amount of the large capital to be drawn upon was not stated. The "deterioration" whose value was "fixed by tables of mortality" was an exaggerated vital impairment. The 60 cents allowed for current death, "per table," age 30, would have been 97 cents with Carlisle 4 per cent., and 81 cents with Combined Experience; and the computer was not figuring at a lower rate than 4 per cent., though his net premium was four cents above 3½ per cent. Carlisle. His premium difference was per \$100 of insurance five cents more at age 31 than at 30, and such five cents per annum had a Carlisle 4 per cent. present value of 84 cents. This was practically the reserve or net value which age 30 was to provide (the value of \$1.89 net being negative at 4 per cent. Carlisle); and taking 60 cents for deaths, there remained 45 cents for account of "deterioration"; but deducting as for Carlisle mortality, the "deterioration" would be represented by eight cents. By the Carlisle table, 4 per cent., there were 28 cents for expenses.

The rates of the Equitable for a single year insurance of \$100 on a single life were (age 16), 77 cents, increasing year by year one cent to and including age 22, then increasing two cents to age 30, then three cents to age 40, five cents thence to age 47; for after ages the rates were:—

Age 48, . . . . .	\$1.70	Age 54, . . . . .	\$2.15
49, . . . . .	1.78	55, . . . . .	2.25
50, . . . . .	1.86	56, . . . . .	2.38
51, . . . . .	1.94	57, . . . . .	2.58
52, . . . . .	2.00	58, . . . . .	3.00
53, . . . . .	2.08	59, . . . . .	3.48

Different terms compared as follows:—

	One year.	Seven years.	Life.
Age 20, . . . . .	.81	.91	\$1.60
30, . . . . .	.99	\$1.30	2.04
40, . . . . .	\$1.29	1.64	2.70
50, . . . . .	1.86	2.07	3.94
59, . . . . .	3.48	3.97	6.03

Five-year half-credit rates had these quinquennial distinctions:—

	Half premium during 5 years.		Half premium during 5 years.
Age 20, . . . . .	.91	Age 40, . . . . .	\$1.46
25, . . . . .	.98	45, . . . . .	1.75
30, . . . . .	\$1.00	50, . . . . .	2.13
35, . . . . .	1.25	55, . . . . .	2.64

Of the policy issued with these rates it was said:—

The travelling leave is most extensive and liberal.

The age of the assured is admitted on the policy, which can only be vitiated by fraud.

The company are satisfied if the party assuring the life of another had, at the time of effecting the insurance, a *bonâ fide* interest in the life.

The policy is assignable *without* the consent of the company.

If the party assured die in a duel, by his own hand, or under sentence of the law, such death will not invalidate the policy, except so far as it was the property of the deceased at the time of his decease.

By the half credit rates of premiums a creditor may insure the life of his debtor without paying more than is actually necessary to cover the risk.

The rates for immediate annuities given by Captain Tuckett discriminated between male and female life duration, and were the first discrimination of the kind introduced into the United States. John Finlaison, actuary to the Commissioners of the National Debt, had, in 1829, laid before the British parliament a report on the life duration of the government annuitants, and from Finlaison's data were deduced, for example, these present values of an annuity of £1 at age 20, with 4 per cent. interest: Male £17.0682, female £18.3100, against the non-sex discriminating Carlisle value of £18.3617. Carlisle 5 per cent. gave at \$100 purchase an annuity of \$6.32, payment beginning one year from commencement of contract at age 20; the Combined Experience annuity was \$6.29. The Equitable's annuity scale was for a payment semi-annually, and being besides for payment to date of death, and not merely upon completion of each half year of subsequent life, there were thus two additional valuations in it, and for male life the annuity was 23 cents less at age 20, than Carlisle 6 per cent.

## EQUITABLE.

*Annuities payable half yearly for every \$100 paid to the Company.*

AGE.	Male.	Female.	AGE.	Male.	Female.
20, . . . . .	7.00	6.60	54, . . . . .	10.20	9.06
25, . . . . .	7.24	6.79	55, . . . . .	10.36	9.23
30, . . . . .	7.41	7.07	56, . . . . .	10.59	9.41
35, . . . . .	7.75	7.30	57, . . . . .	10.83	9.61
40, . . . . .	8.08	7.55	58, . . . . .	11.09	9.83
41, . . . . .	8.12	7.61	59, . . . . .	11.31	10.10
42, . . . . .	8.23	7.69	60, . . . . .	11.61	10.38
43, . . . . .	8.34	7.77	61, . . . . .	11.92	10.64
44, . . . . .	8.49	7.85	62, . . . . .	12.25	10.90
45, . . . . .	8.57	7.94	63, . . . . .	12.63	11.20
46, . . . . .	8.70	8.03	64, . . . . .	13.02	11.51
47, . . . . .	8.85	8.13	65, . . . . .	13.44	11.85
48, . . . . .	9.01	8.28	66, . . . . .	13.89	12.21
49, . . . . .	9.19	8.34	67, . . . . .	14.35	12.60
50, . . . . .	9.40	8.45	68, . . . . .	14.82	13.01
51, . . . . .	9.60	8.59	69, . . . . .	15.33	13.46
52, . . . . .	9.79	8.74	70, . . . . .	15.88	13.99
53, . . . . .	9.99	8.90			

Apart from the sex discrimination, this was an approach towards the original rates of the Pennsylvania Company (1813), *i. e.* the annuities for male lives were higher than those of the Pennsylvania Company, for female lives lower; but the mean of the two sex age-annuities was lower than the one annuity of the Pennsylvania Company. At age 70 the Pennsylvania Company's early annuity was but 7 cents less for \$100 purchase than Tuckett's annuity on male life (*ante* 633). Interest earning being, say 6 per cent. per annum, here was an agreement to pay (age 50) \$3.40 during life for the consideration of \$34.16 approximately. (Carlisle). As between the insurance

and annuity account, matters were fairly balanced;—*i. e.*, if B, age 50, becoming both insurant and annuitant, secured an annuity of \$9.40, and a policy at the same time for \$100, payable at death, the Equitable would be insured on the life of B \$100 at a cost of \$3.40 annually, and B would have his insurance at an annual cost of \$3.94, netting the Equitable say \$3.40.

Life insurance was growing in practice (though knowledge in relation to it was not advancing), and the issue of policies in the city was now over one hundred per month, two-thirds of them being term contracts. The Penn Mutual Life issued fifty-nine new insurances and made thirty-four renewals in December, 1848. Meanwhile the search for gold in California, incited by gold discovery in Coloma county in February, had begun, and the Equitable assumed the combined travel and residence risk at rates shown by the premiums for the following quinquennial years, in which the depreciation of life after age 50, subjected to the perils and hardships of mining adventure, was rated below the established 4 per cent. Carlisle rates with one-third loading. Such premiums were for residence in California or other parts of North America north of 33° north latitude, with privilege to pass to and from California by the Isthmus of Panama between November 30 and July 1.

	Premium.		Premium.
Age 20, . . . . .	\$2.41	Age 45, . . . . .	\$4.06
25, . . . . .	2.56	50, . . . . .	4.66
30, . . . . .	2.83	55, . . . . .	5.59
35, . . . . .	3.10	60, . . . . .	6.88
40, . . . . .	3.47		

So the Equitable was started upon an active competitive career.

The Penn Mutual Life closed 1848 with 379 policies in force for various terms, having issued 418 since it began for an average sum of about \$3,000. Premiums received in the year, \$43,054.66; interest, \$1,107.37; losses paid, \$5,000; expenses, \$7,300.01; income surplus for the year, \$31,859.02. The total assets were \$33,311.45, including \$8,577.49 premium notes, such notes being at twelve months. The assets also included \$3,245.23 quarterly premiums due, and \$583.63 due from agents. A scrip dividend of 80 per cent. was declared upon the cash premiums received up to December 31, 1848, upon all policies in force.

A Health Insurance Company had been started, and while life insurance, as such, was excluded from the charter of the company, it had added a burial fund of from \$20 to \$50, to be paid at death, in addition to the weekly benefits during sickness; and before a year had elapsed life insurance was decided upon as a department of the company's business, power to insure lives being afterwards attained by Section 4 of a miscellaneous legislative act approved April 4, 1849. A scale of life insurance rates was adopted, with "one-half of the profits to go to the insured," which were below the non-participating scale of the Equitable; as, for example, per \$100 insured:—

	One year.	Seven years.	Life.
Age 35, . . . . .	\$1.08	\$1.35	\$2.19
40, . . . . .	1.28	1.51	2.55
45, . . . . .	1.49	1.63	3.01



This was to say that, irrespective of "profits," age 35 was two years younger with the now styled Life and Health than with the Equitable, etc. There were some other variations in putting back the Equitable's rates, for at age 33, whole life, the Equitable rate was \$2.20, not \$2.19; and while at age 43 the Equitable rate was \$3.01—exactly the figures of the Life and Health at age 45—at age 35 the Equitable was \$2 33, and at age 37 the Life and Health was, whole life, \$2.32.

There was a check upon the Equitable a few months from its start. It was the only project now in the city not dividing supposed profits with the insured—that is, making return of part premium. It allowed thirty days' grace for payment of annual premiums due, and fifteen days after each quarterly payment; its concession in rates was equivalent to a certain immediate bonus or dividend, but mutualism was carrying the day. The management became divided in opinion, with one section hostile to the other. The charter was of the date of (as stated) March 28, 1848. Section V provided that all the corporate powers should be exercised by a board of trustees composed of six persons "and a secretary," with power "to declare by by-laws what number of trustees less than a majority of the whole shall be a quorum for the transaction of business." January 18, 1849, a supplement to the incorporating act was approved, which increased the board of trustees to seventeen members "and a secretary," to be elected annually; and the board "as it existed on the first day of January, one thousand eight hundred and forty-nine, shall continue and exercise and enjoy all the powers conferred on the first board named in and created by the said [the original] act until the next annual election hereafter." The time of holding the election was extended ninety days in event of it being omitted on the appointed day. April 9, 1849, another supplement was approved, making the annual election to be held on the first Monday in May, and repealing so much of the former supplement as provided for the election of a secretary by the stockholders. Without the submission of the supplement to the stockholders for approval or rejection, an election was held thereunder, which resulted in the choice of seventeen trustees favorable to the election of Peter Cullen as president. The matter was then taken to the Court of Common Pleas, and in the case of *Claghorn et al. vs. Cullen et al.*, Judge King decided that the trustees claiming under the supplement were without authority, the right to pass upon such supplement being vested in the stockholders, and the old directors had no authority, as their time had expired. A new election by the stockholders was therefore ordered, one judge of election to be appointed by each party, and a third by the court. Under this arrangement six trustees were elected October 11, and Peter Cullen became president, F. W. Rawle secretary, and Harvey G. Tuckett disappeared as the actuary.

With the act of January 24, 1849, agencies of non-State companies began to appear under the county license. Wade G. Smith, at 95½ Walnut street, represented in March, 1849, The Mutual Life Insurance Company of New York, doing business with all cash provisional premium at normal Carlisle rates. This office presented an accumulated fund at the beginning of the year amounting to \$742,000, the largest life insurance accumulation in an American

life office yet attained. As there was, however, no standard of responsibility, no test of liability, exacted, a company of any character or condition could be *authorized* to negotiate its promises by paying license fee, and agreeing to pay the taxes imposed, etc. Solvency, or insurance sufficiency, was tested by the satisfaction, or otherwise, in thirty days, of a final judgment given by a court on a claim. The entrants were accordingly good, bad, or indifferent. The National Loan Fund Assurance Society of London, dispensing with its Camden agency, opened an office at 46½ Walnut street; James H. Blight, agent. At 81 Dock street, H. P. Carlton represented the Connecticut Mutual Life, of Hartford, an office rapidly increasing its risks through the facilities afforded by notes for part premium—premium rates at the normal standard. As the summer advanced, there was another visitation of the epidemic then classed as Cholera Asphyxia to complicate the mortality problem. What was called the American Mutual Life Insurance Company of New Haven also came. Its agent or “actuary” could be found at 4 South Front street, and its rates were constructed or clipped upon the trade principle of “defying competition,” by taking 25 per cent. off the standard rates, which left the American Mutual Life, of New Haven, to pay death claims, expenses, and “profits” with the Carlisle net premium, and then make what reservation might be called for, if any. Sampling the business, a hundred dollars of the insurance offered was sold at:—

	One year.	Seven years.	Life.
Age 20, . . . . .	.68	.71	\$1.30
25, . . . . .	.75	.84	1.53
30, . . . . .	.98	\$1.02	1.78
35, . . . . .	\$1.03	1.15	2.06
40, . . . . .	1.27	1.38	2.40

## CHAPTER VI.

*The Medical Examination—Pulsations—Relation of Weight to Height—Certification of Habits, Heredity, Symptoms and Viability—Comparative Choleraic Mortalities of 1832 and 1849—Fatal Diarrhœal Affections, 1847-48-49—Quadrennial Deaths—Account of Penn Mutual, 1849—Second Quinquennial Bonus of the Girard—Policyholders' Cash Dividend of the Pennsylvania Company—Mutual Life Insurance of Members of a Beneficial Association proposed—Effectiveness of Interest Earnings—Agencies of Other-State Companies—Life Premiums of the Eagle Life and Health, of Jersey City, the Mutual Benefit, of Newark, and the Hartford Life and Health—The North American Mutual Life and Health—Intemperate Habits as affecting the Life Contingencies—The American Life and Health Insurance Company—Its Insurance of Total Abstinents—The Premium and Annuity-Ratings of the American—The Philadelphia Life Insurance Company—What it did with the Rates of the Equitable—The Business of the Equitable—The Equitable becomes a Mixed Mutual—The United States Insurance, Annuity and Trust Company—Its Characteristics—The National Safety Fund issues Life Policies—What was done with it—A Cash Mutual appears, so does a Trenton Mutual—The Penn Mutual in 1850—Taxes paid on Joint-Stock Life Insurance Capital—Philadelphia Death Rates in 1850, Sex and Age Groups—More Corporate Franchises for the Philadelphia Life—New Scrip Dividend Regulation of the Penn Mutual—Tuckett's Practical Remarks on the Present State of Life Insurance in the United States—His Exhibit of Deficient Reservation—The Connecticut Mutual, The Mutual Life, of New York, and the New York Life—The Legal Character of the Penn Mutual Scrip—The Deposit System of the United States Life and Annuity—Dr. Goddard's Three Classes of Life Risks—The United States Life and Annuity declares a Dividend either Reversionary or Cash—The American Life gets on—The Growth of the Penn Mutual and the Accumulations of the Penn Mutual and the Pennsylvania Company—Nine Philadelphia Life Companies—The North American Mutual transfers its Policies—Four Companies have nearly One-Half of the Life Business of the Country—Some Life "Assets"—The Life Department of the Royal, of Liverpool—Davies's Equitable Table and the Equitable Society of London—The Position of English Offices issuing Life Policies in the United States—Legislative Indications—The Equitable Mutual discontinues—Policyholder owns the Policy when delivered—The Howard Life Insurance Company, of New York, and Philadelphia Risks—"Lectures" on Life Insurance—The Questions of "California" Risks, Comparative Mortality of the United States, the Business in and the Technical Valuation of Policies—A Gross Valuation—Valuations under the Massachusetts Law—The New York Life in 1852—Sears C. Walker—Mathematical Determinations of Contingency. (1849-1853.)*

THERE was in the brief association of health and life insurance that conformity which arose from having the same subject in kind in each of the two distinctive policies, and that diversity which arose from assuming difference of contingency in the same subject. Sickness is not mortality, but the applicant, whether for health insurance or life insurance, had, in order to be accepted, to present a clean bill of health, according to the judgment of an examining physician. The health insurance examiner had to avoid the high hazard to the company



of the valetudinarian with a long life of chronic disease; the examiner as to the death contingency had to determine, as best he might, the probability of a short life from imminent acute disease or disease already fixed in the system. This examination by the physician as to the death expectation of the proposed life might, for want of a better name, be designated prognostic physiology, but it was styled medical examination, as medical men were best qualified to conduct the investigations. It was, however, a new and distinctive art in principle, if not in practice; and no more a medication than a surgery. Its diagnoses were to lead up to the etiology of death, not to the cure of disease or wounds. The new art made little progress; it was, in fact, scarcely recognized; and with such a fundamental point as the relation of fatal disease to age passing with little notice, there was no promise of the conversion of the physician into the actual life insurance examiner. Still the medical examinations were growing in details, and the stethoscope and the spirometer (the latter an invention of Charles McEuen, of Philadelphia,) were signs of advancing method. The stethoscope was an aid in auscultation, or the discerning of the states and motions of the internal organs of the body by the sounds which they produce. The first lecture in the United States on auscultation with demonstration of the use of the stethoscope was by Dr. Samuel Jackson, at the University of Pennsylvania, in the winter of 1824-5—seven years after the invention of the instrument by Laennec, a French physician. With such observations on the organic action of diseased persons, followed with inspection of diseased organs after death, peculiar sounds became determinative of peculiar morbid states, and could be discriminated from sounds produced by the healthy action of the heart, lungs, etc. The spirometer, less used than the stethoscope, measured the quantity of the air concerned in respiration, and consequently the capacity of the lungs.

With the best examiners the rate and character of the pulse, under varied positions of the body, began to be more carefully noted.\* Weight in relation to height had not yet been introduced with established measurement. But, in England, Dr. Hutchinson was preparing his table of healthy weight, giving the medium between the undue development of corpulence and deficient fleshiness. Hutchinson's table gave for 5 feet 1 inch 120 lbs. as the proper weight, the weight increasing from 3 to 7 lbs. with each increase of one inch in height: 5 feet 6 inches, 145 lbs.; 6 feet, 178 lbs. Such theory was largely qualified by questions of physical labor and sedentary occupation. It was held that the "bulk of the anatomical frame is pretty accurately shown by the height," and there were no modifications as to age differences. The progression of the series was a mathematical inconsistency.

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\* "The number of contractions of the heart in a given time is liable to great variation, within the limits of ordinary health, from several causes; the chief of these are diversities of age, of sex, of muscular exertion, of the condition of the mind, of the state of the digestive system, and of the period of the day. During the first year of life the average frequency of the pulse per minute is 115 to 130; about the seventh year, 85 to 90; at the age of puberty, 80 to 85; in manhood, 70 to 80; and in old age, 50 to 65. In 100 healthy males of the mean age of 27 years, in a state of rest, the average frequency of the pulse was, when standing, 79; when sitting, 70; and when lying, 67 per minute. In 50 healthy females of the same mean age, the average pulse, when standing, was 89; when sitting, 81; and when lying, 80." (Carpenter's Physiology, 372.)

With the applicant the first step was, at the stage now reached, the filling up and signing of such a blank as this:—

*Declaration:*—I, ——— of the ———, wishing to effect an insurance with the ——— Company in the sum of ——— dollars upon my Life for the term of [whole life or years], do hereby agree, that the answers which are given to the following questions shall be the basis of the contract between the said company and me; and that if any untrue averment be contained therein, or if any material circumstance or information touching my past or present state of health or habits of life, or any disease with which the directors of said company ought to be made acquainted, be omitted, then all the money which shall be paid to said company on account of the said insurance shall be forfeited.

At ——— this ——— day of ——— one thousand eight hundred and ———

SIGNED, .....

*Blank signed by Family Physician:*—1. Do you know ——— mentioned in the preceding application, and how long have you known ———? 2. When did you see ——— last? 3. Is ——— now in good health, and does ——— usually enjoy good health? 4. Is ——— a sober and temperate ———? 5. Is there anything in the pursuits, habits, place of residence, family predisposition, constitutional infirmity, or any other circumstance of the applicant, calculated to make an insurance on ——— life more than usually hazardous? 6. Do you believe that the answers given to the preceding questions and signed by ——— are correct and well founded, or in what respect are they otherwise?

At ——— this ——— day of ——— one thousand eight hundred and ———

SIGNED, .....

*Blank signed by Acquaintance:*—1. How long have you been acquainted with ———? 2. Has ——— been, and is ——— now a person of temperate habits? 3. Do you consider ——— occupation and ordinary manner of living injurious to ——— health? 4. Do you know, or have you heard, that ——— has ever been afflicted with gout, asthma, scrofula, consumption, spitting of blood, rupture, fits, mental derangement, or any other disorder not enumerated tending to shorten life? 5. Do you know of any hereditary diseases in ——— parents or family? 6. Do you believe ——— to be in good health now? 7. Are you aware of any particular circumstance touching ——— past or present health and habits of life which would make it unsafe to insure ——— life? 8. Has ——— ever resided in a foreign climate, and did it injure ——— health?

Dated, ———

SIGNED, .....

*Certificate of Medical Examiner:*—A. B. Examined the ——— day of ———, 18—. Age ———. Born at ———.

1. Height, figure, general appearance, habits of life?  
.....

2. Whether any residence in foreign climates? and if so, where, how long, and how often?  
.....

3. Whether any signs of affection of the head, or of predisposition to it? whether paralysis, tremors, catchings of any part, or any other nervous affections?  
.....

4. Stethoscopic character of respiration, and heart's action: rate and other qualities of the pulse?  
.....

5. Whether habitual cough or expectoration, occasional difficulty of breathing, or palpitation?  
.....

6. Whether any signs of abdominal or other disease, not included in the previous questions?  
.....

7. Whether previous disease or mechanical injury?  
.....

8. Is ——— acclimated, and how long has ——— resided South?  
.....

9. Has ——— been vaccinated?  
.....

10. Opinion on life?  
.....

Upon the appearance of epidemic cholera in the city in 1849 the population had about doubled, in comparison with 1832, when this malady first appeared. Deaths from all causes in 1832 were 6,699; in 1849 the number was 9,462; total from cholera "malignant" in 1832, 948; from cholera "asphyxia" in 1849, 1,027. This shows 14.2 per cent. of choleraic mortality in the total mortality of 1832, against 10.8 per cent. in 1849, but such proportions were in a general mortality of 35 deaths per 1,000 of population in 1832 and 25 deaths per 1,000 of population in 1849. In both periods the cholera culmination was preceded with an advancing death rate, and the better data and classifications of the later period disclose the progress of the fatal diarrhœal affections in the season of less comparative general vital depreciation, viz.:—

	1847.	1848.	1849.
Dysentery, . . . . .	171	315	578
Diarrhœa, . . . . .	134	122	225
Cholera infantum, . . . . .	443	454	582
Cholera morbus, . . . . .	20	31	73
Cholera asphyxia, . . . . .	—	—	1,027

*Total Deaths.*

1846, . . . . .	6,347	(Still-born included, . . . . . 303)
1847, . . . . .	7,278	{ " " . . . . . 397)
1848, . . . . .	7,725	{ " " . . . . . 457)
1849, . . . . .	9,462	{ " " . . . . . 473)

With a mortality increase among the general population in 1849 above normal or average rate of 25 per cent., there was some effect upon the experienced life insurance death rate, though small numbers are subjected to exceptional results deflecting from average; still the securing of a higher vitality by the medical examinations was in some slight degree confirmed. As has been stated, the Penn Mutual Life began 1849 with 379 policies in force, and 660 were issued during the year, the year closing with 919 policies in force. Receipts of the year were \$74,360, losses were \$21,329, expenses \$11,277. There were seven deaths provided for by the tabular mortality, and the average policy was for \$2,175. July 9, 1849, another scrip dividend of 80 per cent. was declared upon cash premiums, and this was followed by an 80 per cent. scrip dividend January 8, 1850. It has been shown that where notes were held by the company, profits were to be credited on the books. The accumulations amounted to \$85,843.02 January 1, 1850, to which sum a guarantee-note capital was added.

The second quinquennial bonus of the Girard Life was declared in December, 1849, on whole-life policies issued prior to 1847; it was a reversionary or insurance value equal to 16.14 per cent. added to amounts of the policies which had continued from 1836, 15 per cent. was added to the issues of 1837, 13¾ per cent. to the policies issued in 1838, and so decreasing by 1¼ per cent. in the ratios for subsequent years.

By the Pennsylvania Company for Insurances on Lives and Granting Annuities the original purpose to issue scrip to "every policyholder" for one-half of the profits was rescinded, and an immediate cash payment in lieu thereof ordered. A cash dividend was declared January 1, 1850, of 12½ per



cent. on the premiums received in the previous five years. The assets of the Pennsylvania Company at the date of such dividend were \$1,027,795.76, including the capital of \$500,000.

As the year 1849 was closing, the Mercantile Beneficial Association of Philadelphia was discussing a method for the mutual life insurance of its members. The funds of the Corporation for the Benefit of the Widows and Children of Clergymen in the Communion of the Protestant Episcopal Church in the Commonwealth of Pennsylvania had risen to one hundred and twenty thousand dollars, and the interest earnings of the funds were found sufficient to discharge the benefits contracted for as they matured.

January 1, 1850, Harvey G. Tuckett signed articles of agreement with the Eagle Life and Health Insurance Company of Jersey City, which had been incorporated in 1847, becoming thereby agent "for receiving applications" for life and health insurance in the State of Pennsylvania—the agency to continue eighteen months, but was terminable at the option of the company with three months' notice to the appointee. Such agent was "to devote his whole time and attention to the business of the said company" at a salary of one hundred dollars per month. Soon after, the Hartford Life and Health Insurance Company (just chartered) opened an agency in the city, in charge of Thomas Birch, Jr. Samuel Kimber was agent at Camden, N. J., of the Mutual Benefit Life Insurance Company of Newark, chartered in 1846, an office transacting business at the standard Carlisle rates, 4 per cent., loaded one-third, with part note premium. The life rates of the Eagle Life and Health were a very slight deviation from such standard. The Hartford issued life policies both with and without "participation in profits"; rates for the former, styled "mutual," were Carlisle 4 per cent., loaded one-third; rates for the latter, styled "joint-stock," were a reduction of one-third from the mutual scale. The comparative result of this "joint-stock" guessing was as follows: From age 30, premium \$1.58 for \$100 insured, for whole life. Tabular death-cost, without discount, at age 30, \$1.01, for age 60, \$3.35; net premium, age 30, 4 per cent., providing for death-rate increase every year, \$1.75  $\frac{1}{2}$ . So about 10 per cent. was cut off from the tabular mortality, and all allowance for expenses swept away. If there were no knowledge of the subject at the making up of such rates, we may at least presume that some kind of ideas in relation to it were about. So, if there were a conjecture that the average whole-life policy was not of longer duration than seven years, with reservations actually not enforced, and default of one premium payment causing previous payments to be "forfeited to the company," there was this chance for remuneration:—

	Seven-year Insurance, Standard Annual Rates.	Whole-life Insurance, Annual Rates of the Hartford.
Age 20, . . . . .	\$ .95	\$1.18
30, . . . . .	1.36	1.58
40, . . . . .	1.83	2.14
50, . . . . .	2.09	3.23
56, . . . . .	3.56	4.52

This rating of the Hartford was but another form of the exaggerated dividend ideas which were beginning to prevail, but the error of the Hartford

was fundamental, that of unwarranted dividend but incidental, and the latter could be corrected in instances before it worked complete destruction. A holding of a company to 84 cents of net value at age 31 upon the rate at issue at 30, and to the subsequent valuations, and the exacting of adequate assets to balance liability on scrip dividend, would have checked such vagaries in rates. The premium for insurance of \$100 one year in the Hartford compared as follows, for the given ages, with the undiscounted death cost per Carlisle table:

	One-year Insurance, Hartford Premium.	Carlisle Mortality Cost at Age.
Age 20, . . . . .	.76	.71
25, . . . . .	.82	.73
30, . . . . .	\$1.01	\$1.01
35, . . . . .	1.12	1.03
40, . . . . .	1.41	1.30
45, . . . . .	1.59	1.48
50, . . . . .	1.72	1.34
56, . . . . .	2.06	1.90

The compiler of this Hartford scale could at least make claim to a better graduation than that of the Carlisle table, and had perhaps some warrant for claiming a nearer conformity to the order, if not the rate, of life decrement. Term life insurance had, however, its own specific mortality, distinct alike from the mortality of whole-life insurance, as both had their deviations from the mortality of the general population. It was found by the offices that whole-life insurances were more compensative in a commercial way than term insurances, and the obtainment of whole-life contracts had become the chief purpose of the official administrator and the chief work of the solicitor.

February 12, 1850, an act was approved which changed the name, style and title of the Spring Garden Health Insurance Company to the North American Mutual Life and Health Insurance Company, and an organization under the charter was now effected: President, William C. Ludwig; vice-president, John Bingham; secretary and treasurer, William F. Dean;—life policies to be issued on the mutual and the joint-stock plan.

Life contingencies, as affected by the use of alcoholic beverages, had now become something of a life insurance question. "Sober and temperate" habits on the part of the assured were stipulated for as a basis of the contract, and it was a matter for inquiry as to how far the indulgence moderately in beer and spirit drinks might approach the excessive mortality admitted to result from positively intemperate indulgence. The word "temperate" did not, in a popular sense, exclude exceptional drunkenness, and the courts would not define exceptional drunkenness as habitual drunkenness. The word temperate, therefore, became of uncertain import. There was medical testimony to the effect that drunkenness was a cause of disease directly by its noxious influence upon the stomach, bowels, liver, kidneys, brain and blood, and by predisposing to epidemic, endemic and contagious maladies; and it was further a jeopardy as producing recklessness as to exposure. In eight years' experience, an English office, the United Kingdom Temperance and General Provident Institution, had a mortality at the rate of 6 per 1,000 lives, with 41 years as the average age of the deceased—average age of the members not stated, but

among the assured lives in the Temperance section there were several above 70 years of age. It was claimed that this experience of six deaths was against eleven in other life offices accepting applicants at the general standard. Both the data and the computation were, however, in a very crude state. F. G. P. Neison was at work in London upon schedules covering 6,011.5 years of inebriate life from the age of 16 upwards. The equation of life is the period within which one-half of any number of persons starting at any given age will die. If, of 1,000 persons beginning 30 years of age, 500 live to reach the 66th year of age, the equation of life at 30 would have been 36 years. Neison's after-deductions were, as to age 30, an equation of life reduced to 13.8 years for the inebriate, against an equation of 36.5 years for the general population; for age 40 the inebriate's equation was 11.6 years, against 28.8 years in the general population. There were, however, no medical or disease statistics to support this figuring; the classifications of occurring deaths were irrespective of any alcoholic origination of disease, and the after introduction of the pathological title Alcoholism, with the assignments of few deaths to such head, served to add confusion to a subject already obscure and of vast uncertainty.

John C. Sims, who had become an insurance agent in Philadelphia in 1849, was an official in the order of the Sons of Temperance. Mr. Sims had also been clerk of the house of representatives at Harrisburg. In concurrence with the views of other advocates of total abstinence, Mr. Sims drew up a charter for a company making the insurance of total-abstinence lives a specialty, but in connection with general life insurance, and also health insurance, such company to be entitled The American Life and Health Insurance Company. The act of incorporation was approved April 9, 1850. There was a capital stock of 10,000 shares, with a par of \$50 each. Section 3 and other sections of the act of incorporation were as follows:—

SEC. 3. The corporation hereby created, although a stock company, may embrace the mutual system, thus combining the benefits of both a stock and mutual insurance company, and shall have power to insure the respective lives and health of its members and others, and to make all and every insurance appertaining to life risks of whatever kind or nature, and to receive and execute trusts, to make endowments, and to grant and purchase annuities.

SEC. 8. It shall be lawful for the said trustees to invest and improve the capital stock, and all money received for premiums or otherwise, in the funded debts of the United States, or of the State of Pennsylvania, or other of the United States, of the county of Philadelphia, city of Philadelphia, or other counties or cities of the States of the United States, and in bonds and mortgages and ground rents, and may invest such portions of the accumulations of said capital stock as to them may seem expedient in building or erecting, or in aiding in the building and erection of a hall in the city of Philadelphia, for the use of divisions of the Sons of Temperance, or other temperance societies, temperance meetings, or such other meetings and purposes as to the said trustees may seem expedient and proper; and the said investments to sell, transfer, change or re-invest, as the trustees may deem proper: *Provided*, That every regulation which the board of trustees may make in regard to the declaring of dividends, or the accumulation or diminution of the funds of the company, shall be binding on all. . . . .

SEC. 14. It shall be lawful for any married woman, by herself and in her name, or in the name of any third person with his assent as her trustee, to cause to be insured for her sole use the life of her husband; and in case of her surviving her husband, the sum or net amount of the insurance becoming due and payable by the terms of insurance, shall be payable to her to and for her own use, free from the claims of the representatives of her husband, or of any of his creditors.



SEC. 15. In case of the death of the wife before the decease of her husband, the amount of the insurance may be made payable after death to her children for their use, and to their guardian, if under age.

SEC. 16. It shall be lawful for any child, by himself or herself, and in his or her name, or in the name of any third person, as his or her trustee, to cause to be insured for his or her sole use, the life of his or her parent; and the sum or net amount of the insurance becoming due and payable by the terms of the insurance, shall be payable to him or her for his, her, or their own use, free from the claims of the representatives of his or her parent, or any of his or her creditors.

Sections 14, 15 and 16 became a general law of the commonwealth for wife and children as beneficiaries under a life policy.

The American Life and Health was organized with Leonard Jewell as president, and John C. Sims as secretary and actuary; policies and rates were selected for various divisions of life insurance, including death-paid endowments and survivorships, and annuities were granted. Total abstinence life policy was limited to a maximum sum of \$1,000. The special stipulation was: "And it is hereby declared and agreed, that if the said [insured] shall, during the continuance of this policy, use as a beverage any spirituous or malt liquors, wine or cider, or shall use the same in any other manner internally, except when prescribed as a medicine by a physician in case of sickness, and then only during actual confinement from sickness, all moneys which shall have been paid on account of this insurance shall be forfeited to the said company, and this policy become void." Like the Hartford Life and Health, the American Life and Health adopted the standard Carlisle rates for profit-participating whole-life policies (mutual rates) in the general life risk, but the non-participating whole-life policies (joint-stock) were issued at a reduction from the mutual rates of about 17 per cent.; the total abstinence rates (also without profit participation) were a reduction slightly deviating from 35 per cent. off of the mutual whole-life rates. The respective whole-life premiums compared, among themselves and with one-year joint-stock, as follows, for the given ages, per \$100 insured:—

	Total Abstinence.	Joint-Stock.		Mutual.
		Life.	One year.	
Age 20, . . . . .	\$1.16	\$1.47	\$ .76	\$1.77
25, . . . . .	1.33	1.70	.84	2.04
30, . . . . .	1.54	1.96	1.09	2.36
35, . . . . .	1.79	2.29	1.14	2.75
40, . . . . .	2.08	2.67	1.41	3.20
45, . . . . .	2.43	3.10	1.60	3.73
50, . . . . .	3.07	3.84	1.65	4.60

The one-year rates were soon increased. At first the total abstinence policies were not written, as a rule, for the ages beyond 50, but subsequently the rates were advanced and the accepted ages extended. An assumption of fully 20 per cent. higher vitality for the total abstinence lives above the general insurance lives was not evidenced by an experience limited to comparatively few risks.

The general life-risk was limited to \$5,000 on one life; mutual premiums on whole-life policies amounting to \$100 or more could be half paid in notes at twelve months, bearing 6 per cent. interest, subject to assessment for losses if required, and payable in event of death by deduction from amount insured.

Quarterly and semi-annual premiums were arranged; for example, age 30, per \$100 insured, mutual, quarterly 61 cents, semi-annual \$1.20; joint-stock, quarterly 51 cents, semi-annual \$1.01,—indicating about interest compensation for deferred payments. Endowments maturing at age 50, 55, or 60, or at intervening death, were provided for according to the annexed annual premium exemplification at the initial years and final years given—amount of endowment \$1,000:—

	50.	55.	60.
Age 14, . . . . .	\$21.13	\$18.69	\$17.04
20, . . . . .	26.98	23.20	20.73
30, . . . . .	44.61	35.49	30.04
40, . . . . .	97.87	64.15	48.49
45, . . . . .	—	100.00	66.86
51, . . . . .	—	—	115.36

There was also a suggestion as to entering upon the enhanced death contingency of joint-lives, *i. e.* two lives as one risk; company to receive the premium annuity during the *joint*-existence of two lives, and pay amount insured at the death of *either*. With the decreased present value of the premium annuity dollar, compared with the single life (the probable joint-existence of two lives being less than the probable duration of the elder life), the rate for insuring \$100 at end of either of two lives, joint-stock, both aged 30, was \$3.34; one aged 30, the other 67, premium was \$6.18, etc. (The annual joint-stock rate for insuring age 67, single life, was \$8.51.) It was also announced that information would be given as to what immediate annuity any given sum would purchase, according to the particular case of the applicant; and there was a proposal to grant reversionary annuities to wife or child, contingent upon the decease of husband or father. The annual rates compared with those calculated by Sears C. Walker for the Episcopal Corporation as follows, for \$100 annuity:—

Husband's Age.	Wife's Age.	Episcopal Corporation.	American.
25,	23, . . . . .	\$25.69	\$24.00
30,	28, . . . . .	28.01	26.60
35,	33, . . . . .	30.46	28.94
40,	38, . . . . .	33.35	31.68

Life insurance in the city thus continued to be organized somewhat ahead of its opportunities—continued to be a test of problems—and there was a strain to push promise to the utmost verge of possible performance. The Philadelphia Life Insurance Company—R. P. King, president, Francis Blackburne, secretary—appeared now as the successor or continuation of the Health and Life Insurance Company, and risks on health were discontinued. Life risks were on the mutual basis, dividends of profits payable to the insured in cash. A new rating for whole life was adopted, and the contrast presented with the Equitable and the Life and Health was in this measure for the ages cited and insurance of \$100:—

	Equitable.	Life and Health.	Philadelphia.
Age 35, . . . . .	\$2.33	\$2.19	\$2.36
40, . . . . .	2.70	2.55	2.73
45, . . . . .	3.23	3.01	3.21

The Philadelphia, in running above or below the Equitable table, was equal to it at age 42, \$2.92; at age 60 the premiums were, Equitable \$6.03, Philadelphia \$6.74. For one-year insurance the rates of the Equitable were adopted without variation.

April 13, 1850, after a business of twenty-three months, the Equitable had 212 policies in force, insuring \$319,920, a decrease of \$67,700 from May, 1849, when the new management was elected. There had been \$15,800 paid in on the capital stock, and \$16,973.45 had been received as premium and \$1,144.20 as interest. Total receipts, including capital, \$33,917.65; total assets, \$19,021.81. In June a dividend of \$2.50 per share was credited to each share of stock upon which \$10 had been paid, and the Equitable had arranged to go upon the list of mixed mutual offices, adding the word Mutual to its title. Upon the capital stock of the American Life and Health \$9,000 had been paid.

A miscellaneous legislative act, approved April 26, 1850, was in the following terms as to Section 4:—

SEC. 4. That Stephen R. Crawford, Ambrose W. Thompson, Benjamin W. Tingley, William M. Godwin, A. E. Borie, J. L. Florence, George McHenry, Lawrence Johnson, Paul B. Goddard, J. L. Linton, and all and every other person or persons who may hereafter become stockholders in the United States Insurance, Annuity and Trust Company, be and they are hereby created and made a body politic and corporate, by the name, style, and title of The United States Insurance, Annuity and Trust Company; and the said corporators hereby have full power to fill up the subscription to the stock and organize the company for the purpose of insuring lives upon a mutual principle, whereby the insured shall participate in the profits resulting from the business; and the said body politic and corporate shall further have all the powers and privileges granted to the Equitable Insurance, Life Insurance, Annuity and Trust Company.

Of the corporation thus created Stephen R. Crawford was chosen president, Ambrose W. Thompson vice-president, Pliny Fisk actuary, Charles G. Inlay secretary and treasurer, Paul B. Goddard, M.D., Alexander C. Hart, M.D., and William Pepper, M.D., medical examiners. This office began with much prestige. Its actuarial and medical departments tended to induce public confidence. Forty-two per cent., or rather \$105,380 of the capital of \$250,000, were paid in—subscription notes were put in for the balance. Standard rates were adopted—no premium notes were admitted; and surplus dividend among the insured was to be endorsed upon the policy at the insurance or reversionary value, present value of such additions to the original insured amount payable by the company on demand. Among the concessions to the insured were policies assignable without knowledge of the company, and policies of two or more years' standing purchasable by the company on surrender. The unrestricted permission to transfer interest in the policy simply relinquished demand for any notice of such transfer by the office, but could not affect any question which might arise as to the validity of the assignment itself.

Among such multiplied and elaborate adventuring upon or towards life insurance, the National Safety, a savings-fund institution—Henry L. Benner, president, Lucian J. Bisbee, secretary—began the issue of policies, and in November, 1850, a writ of *quo warranto* was issued by the Court of Common Pleas requiring that there be shown, by those engaged in such undertaking, by



what authority the National Safety, being, as alleged, unincorporated, insured lives. At the same time a "Cash Mutual Life Insurance Company" had office location at No. 85 Dock street, and this was succeeded by a "Trenton Mutual Life Insurance Company." What served as an answer to the writ directed against the National Safety is contained in the following piece of early subsequent legislation:—

A supplement to an act entitled "An Act to incorporate the Equitable Insurance, Life Insurance, Annuity and Trust Company," now styled the National Safety Insurance and Trust Company, approved the 17th day of April, 1841.

SECTION 1. Be it enacted, etc., That the National Safety Insurance and Trust Company, incorporated by an act passed the 17th day of April, 1841, by the name, style and title of "The Equitable Insurance, Life Insurance, Annuity and Trust Company," but which title, by a decree of the Court of Quarter Sessions of the County of Philadelphia, made on the 8th day of June, 1850, was changed to the name, style and title aforesaid, in addition to the authorities and powers already invested in them, and hereby confirmed, shall be, and hereby are authorized and empowered, to insure the life of any person upon his own application, for the benefit of his wife or children, and the sum insured shall be for the use and benefit of such wife and children, and shall not be subject to the claims of his representatives or creditors: *Provided*, That the premium paid by him for such insurance shall not exceed the sum of \$300 per annum; and the stockholders of said company shall hereafter hold their annual meeting and election for directors on the third Monday of January in every year, instead of the second Monday of January, as heretofore. (Approved February 25, 1851.)

By the close of 1850 the Penn Mutual Life had issued 1,782 policies, of which 1,492 were in force; the receipts of the year were \$115,195.13, the disbursements \$60,678.24, and the accumulated assets now reached \$142,682.19. This office made no concealment of its operations, and its business was in part augmenting by reason of the publicity given of its affairs. By such publicity adverse criticism might be evoked, but even antagonism served to advertise merits as well as to correct whatever errors or abuses might exist. Of Philadelphia life offices, the Penn Mutual was the most discussed and was making the most headway.

The taxes paid on capital stock by life companies, per act of April 29, 1844, were as follows for 1850: Pennsylvania Company for Insurances on Lives and Granting Annuities, \$2,276.85; Girard Life Insurance, Annuity and Trust Company, \$1,200.00 (equal to four mills on the dollar of capital stock); Philadelphia Life and Health, \$18.01.

According to the United States census of 1850, the population of the city and county was composed of 196,391 males and 212,371 females, and in this total population of 408,762 there were 8,435 colored males and 11,326 colored females—the colored population being thus enumerated as 520 less than in 1840. Total deaths in 1850, white and colored, were 8,509 (475 still-born), a decrease from the cholera year (1849) of 953. Enumeration as to ages gave the following divisions of the mortality, apart from the still-born:—

	Males.	Females.
Age 19 and under, . . . . .	2,640	2,203
" 20 " above, . . . . .	1,654	1,542
	<hr/> 4,294	<hr/> 3,745

This was a male death rate of 21.7 per 1,000 of male population, and a female death rate of 17.5 per 1,000 of female population. Rates of mortality of *total*

population at groups of ages were as follows—the rate of 90 years of age and above being abnormal:—

AGES.	Living.	Dying.	Death rate, per cent.	Carlisle ratio.
Under 5 years, . . . . .	53,762	4,542	8.448	7.906
5 and under 10, . . . . .	47,620	419	0.880	1.018
10 to 15, . . . . .	41,706	145	0.348	0.500
15 to 20, . . . . .	41,986	212	0.505	0.675
20 to 30, . . . . .	89,809	747	0.832	0.760
30 to 40, . . . . .	59,954	688	1.148	1.052
40 to 50, . . . . .	37,265	559	1.500	1.423
50 to 60, . . . . .	20,261	401	1.984	1.841
60 to 70, . . . . .	10,531	336	3.105	4.029
70 to 80, . . . . .	4,179	266	6.365	8.273
80 to 90, . . . . .	1,226	154	12.560	15.632
90 and above, . . . . .	463	40	8.639	26.443
Totals, . . . . .	408,762	8,509	2.081	

February 20, 1851, A supplement to an act entitled An Act to incorporate the Philadelphia Life Insurance Company, enacted that in addition to the powers and privileges heretofore granted to "the Philadelphia Life Insurance Company, the said company shall have and enjoy the powers and privileges which are granted to the Western Insurance Company of the city of Pittsburgh." Two days previous a supplement to the charter of the Penn Mutual Life was approved, fixing the sum of \$400,000 as the asset amount to be accumulated before the redemption of any subsequent scrip issue. This supplement repealed sections 4, 8, 12, 14 and 15 of the original act of incorporation.

SEC. 5. That the officers of said company shall, on the first Monday in January of each year, or as soon thereafter as may be practicable, cause a statement to be made of the affairs of the company; and if, after paying all losses and expenses of the said company, and providing for outstanding risks for the year preceding the same, there remain a surplus, each member shall be entitled to such a proportion of the said surplus as the cash premiums paid by such members may bear to the aggregate surplus so declared; the statement so made shall be binding upon all persons entitled to receive certificates as hereinafter mentioned; for the proportionate share of each member so ascertained, a certificate shall be issued declaring him or them to be entitled to such a portion of the accumulated capital of the company, such certificates to be construed and governed as hereinafter mentioned; but no certificate shall be redeemed or paid off until the assets of the company amount to \$400,000; no certificate shall be issued for a less amount than ten dollars, or for any fractional part of ten dollars. Whenever the accumulated capital shall exceed \$400,000, the excess may be applied, from year to year thereafter, towards the redemption of each year's certificates, in whole or in part, as may be determined by the board of trustees, provided the assets of the company exceed the value of the policies in force to an amount equal to the dividend or certificates to be paid off; but the certificates of a subsequent year are not to be redeemed until those of a preceding year are provided for; the trustees may at their discretion declare and pay interest on such certificates, at a rate not exceeding six per cent. per annum.

Harvey G. Tuckett's agency of the Eagle Life and Health had been summarily terminated by the company June 1, 1850, on account of the business of the agency having "fallen so far short of the expectations of the directors," as stated by the secretary in the notification of such discontinuance, and Tuckett had been succeeded by Isaac G. Corriel, Jr. Captain Tuckett brought his views on life insurance before the public in a pamphlet entitled Practical Remarks on the Present State of Life Insurance in the United States, showing the Evils which exist and Rules for Improvement—the latest edition of which appeared in March, 1851. It was a denunciation, accompanied with analytical details, of scrip dividend practices, premium notes, guarantee



capitals, and premium reductions below the scales which he had now fixed upon: for example, age 30, without profits, insurance of \$100 one year \$1.30, seven years \$1.31, whole life \$2.16; with profits, whole life, \$2.37. At age 56 the one-year premium, without profits, was \$2.45, seven-year \$3.48 per annum, whole life \$5.66; with profits, whole life \$6.09. He arrayed himself on the side of augmenting business as a necessity for the stability and prosperity of a life office, the ratio of expense depending in a great measure upon the annual increase of new premiums and number of insured, but did not discriminate between the actual tabular net and the gross premium. He enforced the need of a reservation to meet the augmenting liability under whole-life policies, but his reserve was a notion that it was constituted of 55 per cent. of the successive annual premiums received—of the standard Carlisle rates—so leaving but 45 per cent. for current claims, expenses, and dividend possibilities. The decline of 5,251 Carlisle lives, age 37, insured for \$100 each, was illustrated with premium \$2.90, expenses 10 per cent., and annual dividend 40 per cent.; residuum of receipts over outgo, improving at 6 per cent. interest, against 4 per cent. in the premium construction. With saving in premium provision for expenses amounting to 15.6 per cent. of the total premium (strict tabular net being 2.154), and a gain of one-third of the interest earning, no gain from less mortality or other sources, at the end of the twenty-ninth year, the assets were insufficient to pay the 123 tabular deaths. An addition of 2 per cent. successively per annum to amount insured was shown as but a further putting off of the date of ultimate bankruptcy. There was occasion for an exhibit of something of this character. No office had as yet got so far as to deduct 40 per cent. from mutual rates for stock rates, but very wild ideas were prevalent about the premium as basis for credit and profit. The work of the old soldier was oftener unique than technically accurate, but it was guided by a strong intellect. No calculation, no formulation could, however, prefigure the realized results to an office of experience continually varying. The Practical Remarks gave warning where warning was needed, but the animus was that of the opponent and not that of the examiner, and the result was that antagonism was excited more than conviction was promoted. The assailant did not batter down the mutual system, with its provisional instead of fixed premium—he had reluctantly to submit to it—did not obliterate premium notes, but in much was it afterwards conceded that the “evils” he decried were defects. The first publication in the United States of the Combined Experience or Actuaries’ Table of Mortality was made in this pamphlet.

Conflicts of thought and plan are part of development and progress. The all-cash premium Mutual Life, of New York, and the part-note premium Connecticut Mutual were leading the life insurance work of the country, but the Connecticut office was ahead of the New York office. May 1, 1851, The Mutual Life had 5,065 whole-life policies in force, insuring \$12,683,556.34, and 1,240 term policies insuring \$3,202,625. Of such 6,305 policies, 2,492 life and 658 term were on New York lives. Premium receipts during year ended April 30, were \$440,773.96. The accumulated fund was \$1,348,679.19, and the reserve \$1,009,244.07—dividend additions to policies \$292,902.23.



In Philadelphia the New York Life Insurance Company\* had now become domiciled, albeit "a corporation must dwell in the place of its creation," and the Pennsylvania branch, office 56 Walnut street, had a Philadelphia board of directors composed of nineteen well-known citizens, with J. R. Fry as president.

There was an action in the District Court in October, 1851, testing the legal character of the scrip dividends of the Penn Mutual declared prior to the supplement of February 18. These 80 per cent. dividends, as payable on the death of the insured member, by the original charter were a reversionary value, and as, by the by-laws, bearing interest, were a contingent present value—the rate of interest not to be in excess of the rate received on the company's investments, and subject otherwise to the decision of the board of trustees, and appeared to be something of the nature of a perpetuity. Thomas Elmes was insured September 3, 1847, for \$5,000, annual premium \$337. Mr. Elmes died in December, 1850, and the \$5,000 due were paid by the company. Laing, holder of scrip issued under the by-laws (and through the by-laws transferable on the books of the company), to the amount of \$780, sued for the recovery of the sum on the face of the certificates; the company contending, in effect, that on its face the scrip showed simply a credit for a certain share of an accumulated fund to discharge the liabilities of the company, subject to the claims. The by-laws provided for a sinking fund to meet extraordinary losses in any one year. The plaintiff was non-suited—the court, Judge Sharswood, holding that in accepting the scrip the acceptor changed his original contract under the charter; the paper bore no evidence of indebtedness on its face, and no action of debt could be sustained upon it. In dismissing motion to take off non-suit, the judge said: "While, perhaps, the member by acceding to it [the scrip] yields the absolute right of payment in cash at his death, he gains another important advantage, the power of immediate disposition as so much ascertained property, subject to no contingency."

To give an insurance value to a dollar in possession was a theory of life insurance to which thought and calculation had been given; it was a most desirable project—the question was as to its practicability. The deposit system of life insurance was attempted by the United States Life and Annuity, using the English deposit tables of Neison. Such a project substantially makes the life office a saving fund in which the depositor, instead of receiving interest, receives an equivalent in life insurance. A single premium being the present value, at a given rate of mortality and interest, of a certain sum whose payment is due at death, treating each five dollars deposited as single premium while on deposit, the United States agreed to pay the depositor at death as follows per one dollar of deposit:—

Age 15, . . . . .	\$2.86
20, . . . . .	2.66
30, . . . . .	2.24
40, . . . . .	1.90
50, . . . . .	1.62

\* This company began in 1845 as the Nautilus. It was the original purpose to found a life, fire and marine company under this title, but at the organization it was decided to limit the risks to lives. The New York Life issued 1,329 policies in 1851, and had at the close of 1851 \$12,000,000 of insurance in force.

This at age 15 was a value of 34.9 cents per one dollar due at death; by Carlisle 3 per cent., it would have been 31.3 cents. The deposit was withdrawable at the option of the depositor, and the insurance terminated; but there was further inducement to continue the deposit, or protract its duration, in an allowance of part of the interest to a regularly accumulating depositor, on withdrawal, with some safeguards against the too rapid accumulation of deposits where the depositor was actuated by a consciousness of, or belief in, approaching death.

Branch offices of the United States had been opened in New York and New Orleans, and to the medical examiners at a distance of this intelligently conducted company, Dr. Goddard, the examiner at the home office, issued the following instructions:—

In giving an opinion on life, it is desirable that there should be a uniformity in the expressions used by the examining physicians, to enable the board to understand and appreciate correctly the opinion they intend to convey. It is therefore suggested that there be expressions used for *three* grades of risks, as *first*, *second* and *third* class risks.

First Class Risks will embrace all those in perfect health, who have never had any serious illness, of good habits, healthy avocations, and of whom there is no cause to suspect any hereditary predisposition to disease.

Second Class Risks, those who have had serious constitutional sickness, but have apparently recovered; those in whom hereditary taints may be suspected, though not particularly indicated, and who are subject to disease not of a very fatal character, as rheumatism, asthma, etc.

Third Class Risks will include those who, from any cause, have impaired health or are hereditarily predisposed to pulmonary or other diseases, whose health is affected by their occupation, and those of intemperate habits.

As very great advantage is derived from a personal view of the party under examination in forming an opinion of his longevity, therefore great importance is attached by the board to the opinion of the examining physician. It is expected in this service, therefore, that all the circumstances connected with the question of the longevity of the party, as his family history, general appearance, and habits, should be duly considered by the medical examiner.

At the close of 1851 the insurance in force in the United States Life and Annuity aggregated \$1,346,270—number of policies, 632. Two losses had been paid. The receipts (\$50,742.97) were \$36,565.71 in excess of disbursements—a prominent source of revenue was 8 per cent. on collateral loans at New Orleans. The directors asserted that “after careful reservation of a sum sufficient for reinsurance of all outstanding risks,” they were “warranted in declaring a bonus of 20 per cent. on premiums received up to date of statement upon all policies entitled thereto, which will either be added to the amount insured and be payable at death, or else the present value in *money* will be paid to each policyholder at his or her option.” This dividend was, we infer, equivalent to an immediate average cash value of about 8 per cent. of the premium, but there was intelligence enough in the United States Life and Annuity to have known that the time for declaring dividends had not yet come. The general expenses of the institution were divided between the saving fund and trust department and the life insurance department. A saving-fund business had become an adjunct of the Philadelphia life offices generally.

The American Life and Health had now in force 250 life policies, insuring about \$250,000.

By the exhibit, January, 1852, the accumulated fund of the Pennsylvania Company for Insurances on Lives and Granting Annuities had been increased \$142,917.78 in two years. Of the total assets, \$118,917.78 were real estate purchased at foreclosure of mortgages. Total real estate bonds and mortgages held by the company \$383,423.56, demand loans on collaterals \$191,514.64—all assets \$1,170,713.54. The accumulations of the Penn Mutual Life had increased in the same period \$92,075.28; policies in force January 1, 1852, 1,507, out of 2,227 issued to date—445 in the last year. Premiums received in 1851 on term risks—one to ten years—\$6,126.76, on whole-life policies \$95,597.38, extra risks \$5,463.04. Interest receipts were \$7,816.44. There were twenty-three losses paid in 1851, amounting to \$54,800, and the sum of \$3,099 was paid for interest on scrip dividends of 1849 and 1850. Dividend of 25 per cent. was declared on \$85,673.52 cash premiums of 1851. Insurance in force amounted to \$3,708,860.

At the beginning of 1852 there were nine Philadelphia companies issuing life policies, including the Episcopal Corporation, and not including, besides the Presbyterian Corporation, the North American Mutual Life and Health, which temporary experiment was discontinuing, transferring its policies—about 200 in number—to the Ætna Life, of Hartford. These nine Philadelphia offices were carrying, approximately, \$12,000,000 of life insurance. Four non-Pennsylvania life companies, viz., the Connecticut Mutual Life of Hartford, The Mutual Life of New York, the New York Life Insurance Company and the Mutual Benefit Life of Newark, N. J., had \$65,168,277 of insurance in force on outstanding policies—nearly one-half of all the life insurance in the country. So it was more or less established *how* and *where* life insurance was to grow, and so was beginning to be shown the difference between life insurance as a project and life insurance as a creation. One of the projects of the time, the Philadelphia Life Insurance Company, is somewhat indicated by its statement for January 1, 1852:—

Capital stock, . . . . .	\$100,000
<i>Assets.</i>	
Investments made in public stocks, loans, etc., agreeably to the charter, . . . . .	\$26,599 14
1962 shares of stock of the Philadelphia Life Insurance Company (not issued), . . . . .	49,050 00
Bills receivable, . . . . .	30,570 00
Deferred premium account, . . . . .	8,313 26
Due from agents and others, . . . . .	2,448 95
Fixtures, etc., . . . . .	500 00
Cash on hand, . . . . .	\$486 90
Interest due and not collected, . . . . .	907 20
	1,394 10
	\$118,875 45

While the writing of fire risks was the chief business of the agency of the Royal, of Liverpool, the life department was also brought into operation in the city; no extra charge for voyage risk of passengers crossing and recrossing the Atlantic in ocean steamers or first-class sailing vessels—residence admitted in Europe or North America (east of the Mississippi) north of 38° north



latitude.\* The life premiums of the Royal were based upon Davies's Equitable Table,† 3 per cent.—annuities  $3\frac{1}{2}$  per cent. The loading of the net life premium was varied from  $12\frac{1}{2}$  to 30 per cent. Rates were, for example, whole life, insurance \$1,000, age 35, \$28.10, with participation in profits; without participation in profits, \$25.00. Thirty days' grace was allowed in the payment of premiums due. The insured participated in the profits to the extent of two-thirds—dividends quinquennial—at the option of the policyholder payable in cash or applied to the reduction of premium or increase of insurance. The Royal was thus added to the other British offices transacting a life business in the United States, viz., the Albion, the British Commercial, the National Loan Fund, and the Eagle. The rates of these were somewhat in advance of the standard rates of the most reputable American life offices, and in competition with American companies in the United States the foreign life companies were at a disadvantage:—1, the life contract was a long one in contingent duration, and the foreign companies were as yet recognized as but sojourners, and not as located and established in the country; 2, such premium payment was as the making of an investment in a distant land; 3, the enforcement of the contract was attended with uncertainties; 4, without funding the premium surplus above current disbursements in the United States, and the putting of the business upon an entirely American basis, the American policyholder would not have the benefit of the high interest-earning in the United States.

Without consummating any law regulating specially the practice of life insurance in the State, the legislative session of 1852 debated bills for examination into the management and affairs of companies, with exhibit of policies in force and assets, State deposits, etc. Retaliatory State action was suggested in a proposed section specifying that certain other sections of the bill "shall be applicable and extend only to companies chartered by States whose laws impose restrictions of a like kind on companies chartered by the laws of the State of Pennsylvania." The Equitable Mutual Life, approaching the end of its attempt to establish a life insurance office, was empowered to insure fire and marine risks, and its life policies, like those of the North American Mutual Life and Health, passed to the *Ætna Life*, of Hartford. On one of its policies the North American Mutual had begun suit to recover back the instrument, charging concealment of material facts by the insured. While the action was in progress the insured died. Judge Stroud, District Court, held that the defendant having paid for the policy, *i. e.* the printed blank, it was his

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\* At the request of the American agents, the board of directors in Liverpool adopted a resolution extending the privilege of residence to any part of North America to the north of 36.30 north latitude, but not to the westward of the Rocky mountains; also, to travel to (but not permanent residence in) any part of North America eastward of the Rocky mountains from November 1 to July 1.

† The Equitable Society of London was as yet the largest life company in the world. Upon the records of its insured lives from 1762 to 1829, Griffith Davies constructed the table named. (It was revised by Morgan in 1834.) Total lives insured in such period of 66 years, 21,398; remaining January 1, 1829, 6,930; died, 5,144, and 9,324 ceased to be members by surrender, forfeiture, or other withdrawals;—so 42.6 per cent. of the continuing members had died, and 24.4 per cent. of the entrants. The Equitable table was carried from age 10 to 97, and this first tabulation of insured life varied but slightly from the Carlisle table from age 10 to 80 as to whole-life vitality, but there was better discrimination as to the death rate of the particular ages.

property, and the plaintiff corporation could not recover. This left the question open as to recovery of a claim under the policy.

The act of January 24, 1849, regulating the admission of non-State companies, was generally disregarded, except, according to Tuckett's Journal, when used as an instrument to scare and obstruct a particular agency. Risks on Philadelphia lives were, however, secured without an official domicile in the city. In December, 1852, the Howard Life Insurance Company of New York appeared with Philadelphia references, and the request made that "persons desirous of effecting insurance with this company will please address the office, No. 192 Broadway, New York." It did business on the stock and the mutual plan, and "seven-eighths of the profits will, at the expiration of every three years, be appropriated to parties insuring upon the mutual system."\*

The second edition of a volume, 8vo., 242 pages, entitled *Lectures on the Science of Life Insurance*, was issued in January, 1853.† Its treatment of the subject was explanatory, historical, argumentative, and critical. The divisions of the work were as follows: Lecture I.—Introduction: a review of the life insurance position. Lecture II.—Sec. 1, General Principles; Sec. 2, History; Sec. 3, Companies. Lecture III.—Sec. 1, Rate of Interest; Sec. 2, Rate of Mortality; Sec. 3, Rate of Insurance—probabilities, calculation of rates, etc. Lecture IV.—Practice. Lecture V.—Law and Medical Jurisprudence. Lecture VI.—Moral Influence. The elucidation of the life insurance construction was with simple arithmetical details. In respect to methods and practices, the most conservative usages were contended for. The practices as to health risks and total abstinence risks were opposed on the ground that the true value of such risks was unknown;—a statement which had more or less application to every kind of insurance risk. Of California risks it was said: "There is a very great discrepancy in the experience of different offices as to the value of California risks; ten per cent. being not enough, according to the limited, brief and early experience of some of the offices, to cover the extra

\* Annual premiums for insurance of \$1,000 to the assured, if he survives, at the age of 50 or 60, or to his representatives in case of death before attaining either of those ages, with profits, by the Howard Life were:—

Age next birthday.	50	60	Age next birthday.	50	60	Age next birthday.	50	60
14, . . . . .	23.60	18.20	26, . . . . .	40.40	28.00	39, . . . . .	103.60	50.80
15, . . . . .	24.60	18.80	27, . . . . .	42.70	29.10	40, . . . . .	115.20	54.40
16, . . . . .	25.50	19.40	28, . . . . .	45.20	30.30	41, . . . . .	. . .	57.60
17, . . . . .	26.60	20.00	29, . . . . .	48.00	31.50	42, . . . . .	. . .	61.20
18, . . . . .	27.60	20.70	30, . . . . .	51.60	33.00	43, . . . . .	. . .	65.00
19, . . . . .	28.70	21.30	31, . . . . .	54.80	34.60	44, . . . . .	. . .	69.50
20, . . . . .	30.20	22.00	32, . . . . .	58.40	36.00	45, . . . . .	. . .	74.20
21, . . . . .	31.80	22.90	33, . . . . .	62.20	37.50	46, . . . . .	. . .	80.50
22, . . . . .	33.20	23.80	34, . . . . .	66.80	39.20	47, . . . . .	. . .	88.50
23, . . . . .	34.70	24.80	35, . . . . .	72.00	41.10	48, . . . . .	. . .	97.90
24, . . . . .	36.40	25.80	36, . . . . .	78.00	43.20	49, . . . . .	. . .	106.00
25, . . . . .	38.30	26.90	37, . . . . .	85.70	45.50	50, . . . . .	. . .	117.50
			38, . . . . .	93.90	48.00			

† Lectures on the Science of Life Insurance, addressed to Families, Societies, Trades, Professions—Considerate Persons of All Classes; by Moses L. Knapp, M.D., Secretary of the Fraternal Mutual Life Insurance Company [at Cincinnati], late Professor of Materia Medica and President of the College of Physicians and Surgeons of the University of Iowa, etc. Philadelphia: E. S. Jones & Co.



risk on the lives of the California emigrants, while one per cent. is found amply sufficient, according to the later, yet still limited experience of other offices that have embarked in these risks." Dr. Knapp urged a less rate for the emigrants by the Overland route, as compared with the Isthmus route with its tropical climate and the uncertainties of Isthmus conveyance. Agreeing largely with the Practical Remarks of Tuckett, the author of the Lectures refuted, however, Tuckett's estimate of the high rate of mortality in the United States as arising from a certain physiological peculiarity, viz.:—

The rate of mortality in the United States has been estimated, however, by a recent author (Tuckett) to be about one-sixth higher in the United States than in England, but on what data does not appear, save his assertion, that "the average American rate of pulse is fifteen beats in a minute higher than the English, a fact that has been ascertained by comparison of the medical examinations in both countries." That this fact proves nothing unfavorable to American life, admitting it to be a fact, which, however, no physiologist will do, will appear from the established physiological law, founded on English observation, that the pulse of the adult female exceeds in frequency the pulse of the adult male, at the same mean age, by from ten to fourteen beats in a minute (Guy's Hospital Reports, vol. iii, p. 312), taken in connection with the observations also made in England, establishing the fact of the greater longevity of females.

In the data of the Lectures the compiler was successful in getting below the average ratio of mistake usual where numerous particulars are to be stated. Number of American life offices was given as forty in 1851, with four American branches of British offices besides, and two more American offices just organized. Making an estimate upon the basis of the policy issues of the three largest life offices, the insurances in force in the United States at the beginning of 1851 were computed as approximately \$300,000,000 upon 150,000 lives. Tuckett's Monthly had afforded evidence sufficient for the second edition of the Lectures, to show that such estimate was more than double the actual life insurance in force.

As to the technical "value" of a life policy, the gross premium supplied the basis; *i. e.*, the value was more a question of future resources than present asset accrument. A Massachusetts law enacted in 1852, in relation to non-State life companies doing business in the State, called for an exhibit as follows:—

1. Present value of amount insured by existing policies.
2. Present value to the company of future premiums on these policies.

Dr. Knapp quoted a rule of valuation at least good against negative values, viz.:—

To find the present value of a policy of insurance at the moment before a premium becomes due, subtract the premium which is to be paid from the premium which should be paid, if the same party made the same insurance at the present time. Find the present value of an annuity on the life of the party insured, of the same yearly amount as the preceding difference, and this value increased by one year's purchase, is the present value of the policy.

To find the value of the policy immediately after a premium is paid, add the premium just paid to the result of the preceding rule.

Dr. Knapp urged uniform legislation among all the States, but the time for intelligent life insurance legislation had yet to come; partly, uniformity would be attained by one State following after the pattern set by another, subject to



the condition that in all imitation defects are more apt to be copied than correct normal principles. A bill similar to the Massachusetts law was unsuccessfully introduced into the Pennsylvania legislature at the session of 1853.

The Hartford Life and Health Insurance Company, now the Hartford Life Insurance Company, had increased its joint-stock rates from its original table of such premiums, and it presented the following valuation of policies for date of March 31, 1852, as required by the Massachusetts law. "The estimated value of existing policies and the present value of future premiums on those policies were calculated by John W. Bacon, superintendent of the Hartford, Providence and Fishkill Railroad Company."

Amount insured by existing policies, . . . . .	\$4,036,140 00
Present value of existing policies, . . . . .	1,249,562 94
Present value to the company of future premiums on these policies, . . . . .	1,438,540 75
Premium resources above policy liabilities, . . . . .	\$188,977 81

This was a method by which a company with no assets could show a surplus. The Hartford had \$249,669.25 of assets in hand, and Tuckett's Monthly announced the Hartford as having "accumulated a very satisfactory surplus fund"; and as no value liability was charged as having matured on the policies, the existence of such surplus might be taken for granted. Gillett & Coggs shall were now the Philadelphia agents of the Hartford Life.

The United States Life Insurance, Annuity and Trust Company of Philadelphia was the model office of the city in respect to exhibit of condition. In its report to the Massachusetts Secretary of State, as for date of January 1, 1852, the company advanced upon the text of the law, and returned the values by net premium as per Carlisle 4 per cent. Pliny Fisk, the actuary of the company, made the calculations. Insurance in force, \$1,346,270 (381 whole-life policies, 137 seven-year, 113 one-year and less). Present value of insurance in force was \$343,037.59, present value of future net premiums receivable \$320,191.64. This gave a net liability on the policies of \$22,845.95 at about eighteen months from the beginning. Of the thirteen non-State companies reporting to Massachusetts, only three (New York) offices, viz., The Mutual Life, the Manhattan Life, and the United States Life, made return similar to the United States, of Philadelphia. The Union Mutual Life, of Maine, Elizur Wright, actuary, with \$5,497,336 of insurance in force, exhibited "\$197,540.32" as "present value of existing policies," and "\$2,351,420.79" as "present value to the company of future premiums on these policies." Such was the beginning in the United States of State supervision of life insurance, with showing of technical liability; and actuaries Gill, De Groot and Fisk were leading the way out of a muddle which existed, irrespective of any choice as to method of valuation. Complying also with the letter of the Massachusetts law, Mr. Fisk gave the present value of the gross premiums receivable as \$426,922.19, so showing \$106,730.55 as the value of the "marginal additions" or loading. The assets of the United States amounted to \$286,565.71, of which \$144,620 00 were stock subscription

notes. While the company was without a net surplus, or had but a very small one, the cash capital of \$105,380 was financially intact and invested.

A. M. Collins, 15 Minor street, represented The Mutual Life, of New York, —assets February 1, 1853, \$2,060,649. The New York Life issued 1,260 new policies in 1852; total assets at close of the year \$636,678.92, of which \$244,670.67 were notes, 40 per cent. of premium. With a receipt during the year of \$327,298.09 of premiums, there were received in addition \$1,998.00 "for endowment and annuity."

Died at Cincinnati, January 30, 1853, Sears C. Walker. Illustrious, preëminent as an astronomical mathematician, he had, as an actuary, limited success. It has always been a futile attempt to subject the varying economic law to fixed conditions as in a law of physics. Mr. Walker became actuary of the Pennsylvania Company for Insurances on Lives and Granting Annuities in 1836, two years after he had prepared his parallax tables for the latitude of Philadelphia, which reduced the time needed for computing the phases of an occultation, or the eclipsing of one heavenly body by another, to less than half an hour. Such reaching out so far to attain such quick and near exactness tends to prejudge in advance and mislead in process when applied to the insurance computation. Physical Science is Certainty—at least so far as pertains to the interdependence and relations of phenomena—insurance may be described by a title which is a paradox, as the Science of Uncertainty.\* We ask a question, and leave it to others to make answer, viz.: Who that has ranged in thought along the contingencies outside of the theoretical probability has ever been satisfied with the annuity proposition, that if the value of an immediate annuity of \$1 on a single life age 25 is \$17.64, and on a single life age 40, \$15.07, that the value of an annuity of \$1 contingent on the *joint*-existence of the two lives, aged respectively 25 and 40, is \$13.20? If an annuity subsists on two persons of like ages, and is terminable at the death of *either* of the two persons, the two persons constitute *one* annuity life with *half* the life expectation of the single person. Insurance is a branch of applied mathematics, but the *application* is the question, and apparently the mathematical accountant serves better than the mathematical scientist. Mr. Walker had, some years before his death, retired from actuarial pursuits. He became assistant superintendent of the United States Coast Survey, and in connection therewith, and otherwise, there is an array of valuable and profound discoveries which attest his genius and his service to mankind.

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\* "Mathematicians are bad reasoners on contingent matters. To previous illustrations may be added the recent one yielded by M. Michael Chasles, who proved himself incapable as a judge of evidence in the matter of the Newton-Pascal forgeries. Another was supplied by the late Prof. De Morgan, who, bringing his mental eye to bear with microscopic power on some small part of a question, ignored its main features." (Herbert Spencer: The Study of Sociology, 318.)

## CHAPTER VII.

*Reinsurance with Death of Insured Unknown—Agency of the Union Mutual, of Maine—The United States Life Insurance, Annuity and Trust Company in its Third Year—A Surplus "Sufficient" for Dividend—A Tontine Project—The Life Policy of the United States Branch of the Liverpool and London—Death of Harvey G. Tuckett—Life Insurance Arithmetic—Commutation Columns—The Keystone Mutual Life, of Harrisburg—A Question of Occupation, Risk, and Fraud by Suicide—Positions attained by the Philadelphia Life Companies in 1854—Stock Capital of Pennsylvania Company not Liable for its Life and Annuity Contracts—Third Reversionary Dividend of the Girard—The National Loan Fund Society of London has Name changed to International Life—Its American Business—Holbrooke, Lewis & Co.—W. S. B. Woolhouse figures the Dividend Paying Power of the National Loan—Philadelphia Office of the British Commercial—Creditor's Partial Interest in Collateral Insurance Security—Pre-dated Policy delivered and Insured Dead—End of Some Experimental Companies—General Agencies—The United States Life and Annuity after Five Years' Practice—The Penn Mutual Life in 1856—The Philadelphia Fire and Life discontinues Life Policies—Charter Oak Life, of Hartford, licensed—The American Life in 1858—Surrender Values inaugurated—Endowment Accruments—Various Premium Payments (whole-life policy) of The Mutual Life, of New York—Financial and Insurance Stage reached by the Penn Mutual after Twelve Years' Practice—The Policy of this Company—Reversionary Dividends of the Girard and the United States Life and Annuity—State Premium Tax paid by Other-State Life Companies—Net Value of Policies of The Mutual Life, of New York, as per Year of Issue—Valuations of other Companies—The Scrip Dividend Redemptions of the New York Life—Philadelphia Life Agencies—Philadelphia Mortalities in 1860: Sex, Age, Color—Comparison of General Mortality Ratios (age groups) with Carlisle and Combined Experience Tables—The Normal Age Death Rates of the City—The Nonagenarian Death Force—The Yellow Fever reappears—Endowment and its Premium Calculation by Commutation Columns—Life Insurance as with and without Endowment—The Endowment Writing of the Penn Mutual—The American Life—Its Experience, Position and Policy Phraseology, 1860—On the Eve of War between the Federal Union and Seceding States—What of the Future?—To What Extent Life Insurance had reached—An Uncertain Company and an Assignment Business; Corporate Privileges as Assets. (1853-1860.)*

EXEMPTION from litigation had marked the beginning and development of life insurance in the city, but the life risk as conditionally analogous to the marine risk, "lost or not lost," became a matter in contention between the Philadelphia Life Insurance Company and the American Life and Health. This was an action of covenant in the District Court, begun by the Philadelphia on a policy issued by the defendant (reinsurance), whereby the American insured, February 11, 1851, the life of Sarah Riddle for the sole use and benefit of the plaintiff, in the sum of \$2,000 for the term of five years. Narr. filed December 21, 1852, and on the same day the defendant submitted four special pleas, and fifth, a plea of set-off.



In relation to the last plea, it appeared that, February 24, 1851, the American Life and Health insured the life of Maxwell Nusbaum for \$2,500, with the privilege to him of insurance for another year. May 31, 1851, the American obtained an insurance of \$1,000 of the risk from the Philadelphia for the term of one year, without reference to the period in the American policy. It was stated in the policy, that if the declaration made by the secretary of the American, on the faith of which such second insurance was made, were untrue, the policy was to be void. In the declaration by the American's secretary it was declared that he believed Nusbaum's age did not exceed 30 years, and that "he is now in good health."

This declaration was dated May 31, 1851. By a memorandum on the policy of the same date, signed by the secretary of the Philadelphia, in consideration of an extra premium of \$30, included in the premium, the insured had permission to go to California. Though it was not then known to either party, Nusbaum was then dead, having lost his life in a fire in California on the fourth or fifth of May, 1851. Nusbaum's application was for insurance, "Harrisburg to California." In the proposal by the American, he was "going to California"; but at the time of the second insurance it was known to both companies that Nusbaum had left Philadelphia for California. Notice of his death coming some weeks after the second policy was made, the American claimed the \$1,000 under the second insurance as an offset to the claim of the plaintiff on account of the insurance on the life of Sarah Riddle. A copy of Nusbaum's application to the American was made out for the Philadelphia, which issued to the American a policy for \$1,000 of the \$2,500, at two-fifths of the whole premium received from Nusbaum. The jury found for plaintiff \$2,053.33, and under the plea of set-off found for defendant \$1,095, subject to the opinion of the court; and afterwards judgment was entered for the plaintiff for \$958.33.

The material assignment of error was the instruction to find for defendant under the plea of set-off.

The question was, did the Philadelphia reinsure the risk of the American as such, or did it reinsure for one year from date of its policy?

In Error. Lowrie, J.: . . . . . How ought the parties to have understood the transaction? This is a question of interpretation, and, in order to answer it intelligently, we must place ourselves as nearly as possible in the circumstances under which the contract of reinsurance was made. (3 State Rep., 254.) The writing by itself would be construed as a contract running one year from date. Do the circumstances require a different construction? It is very important to notice that we are compelled to look outside of the policy to ascertain that this is a case of reinsurance, for inside of it there is no word to indicate this fact. . . . . Being a reinsurance, it is a contract to take a share of defendant's risk. This necessarily raises the presumption, and the evidence proves it, that the plaintiff knew all the terms of that risk. . . . . It reinsured for one year. Does this mean from the 31st May? It is unreasonable to suppose so. The defendant could not have intended, and the plaintiff could not understand the defendant as intending, to be insured for three months beyond its interest. It is said that the contingent liability of the defendant to become insurer for another year was an insurable interest. Suppose it so; still being a contingent risk, it would not be taken as a certain one. It would not be so taken as a matter of course, and without special treaty as this one was. Moreover, the premium was measured by the certain, and not by the contingent risk. We cannot thus make up the year insured against in the intention of the parties. The contract and the circumstances express themselves in seeming contradiction of each

other, and our duty is to make them harmonize by construction. We cannot alter the facts to suit an inference drawn from the mere words of the policy, but we must suit the inference to the facts. Without the circumstances we would draw one inference as to the intention of the parties; with them we must draw a different one. The fact that the reinsurance was for one year on a risk running for one year from the 24th February, and in consideration of a proportional share of the premium as from that date, settles the question and starts the year of the reinsurance from that date, and all the representations must be read as of the same date; and this makes the time of the loss immaterial. See *Chouteaux vs. Leech*, 18 State Rep., 224. (11 Harris, 65.)

The Union Mutual Life Insurance Company of Maine had now been added to the list of non-State life companies represented in Philadelphia—William Mann, agent.

The United States Life Insurance, Annuity and Trust Company, in its second annual report to the public, showed the following:—

Whole number of policies outstanding December 31, 1852, . . .	1,072	
Whole amount of insurance thereon, with bonus for 1851 and 1852, . . .	\$2,067,517	
Amount of fund reserved for reinsurance, December 31, 1851, . . .	\$36,565 71	
Less then deferred quarterly, etc., payments since received, . . . . .	\$6,524 36	
Less present value of bonus of 1851, since paid in cash on demand, . . . . .	1,283 83	
Less amount of premiums since returned, . . . . .	69 12	
	<hr/>	7,877 31
		\$28,688 40
Amount received for premiums, interest, and on policies, . . . . .	62,152 78	
		<hr/>
		\$90,841 18
Disbursed [as detailed], . . . . .	34,812 14	
		<hr/>
Amount reserved for reinsurance, December 31, 1852, . . . . .	\$56,029 04	
Capital, . . . . .	250,000 00	
		<hr/>
Total assets, December 31, 1852, . . . . .	\$306,029 04	

In this form of showing, reinsurance but maintained the capital, and there were other liabilities than the net value of the policies. The company, however, had, in the opinion of the managers, such surplus as was "sufficient to warrant their again declaring that the policyholders of this company shall receive a bonus of twenty per cent. upon the premiums of all policies entitled thereto, and which bonus will (as on the former occasion) be added to the amount insured, or else the present value in money will be paid to the policyholder, at his or her option." Such assumption was a virtual declaration that the money would not be needed to discharge the future maturing obligations of the company, and the company was yet an experiment. English actuaries were discussing a problem entitled "the bonus-paying power of a life company"; it was an attempt to find, or make, the solution of an equation of which most of the terms were indeterminate quantities.

The busy brain of Tuckett, fertile in expedients, had prepared a plan introducing the tontines—popular in France—into the United States. A United States Mutual Laudable\* and Provident Association was incorporated by the State legislature March 31, 1853. An organization was effected with J. L. Gihon as president, D. B. McGinley, secretary, and F. Blackburne, treasurer.

\* "Laudable" had been used as the title of English associations of deferred annuitants.



Its projector was to arrange the workings and organize the agencies, but the continuation of the Mutual Laudable, like the consummation of a pair of libel suits on account of hostile comments in Tuckett's Monthly Insurance Journal in connection with the transfer of the Eagle Life and Health, of Jersey City, to the newly started Knickerbocker Life Insurance Company of New York (which complied with the Pennsylvania law), was contingent upon the life of Tuckett.

The "Laudable" was a collection and investment of \$6 per year for seven years on each policy—at the expiration of the seven years the resulting fund was to be divided *pro rata* among the survivors in proportion to the number of policies held by each. No allowance was made for older ages to compensate for decreased chance of surviving any more than discrimination was required as to climate and travel. As life insurance is commercially profit by *dying*, so the tontine is profit by *surviving*; to compensate the older tontine member for his earlier death would have been in defeat of the tontine principle.

By the United States branch of the Liverpool and London Fire and Life the issue of life policies was begun in 1853 (Dr. Farr's English table, 3 per cent., loaded from 7 to 30 per cent.; Carlisle  $3\frac{1}{2}$  per cent. for annuities); but such writing was prosecuted to a very limited extent. The American policy of this fire and life office was as follows:—

No. ....

THIS POLICY OF INSURANCE *Witnesseth*:

ANNUAL PREMIUM.	That The Liverpool and London Fire and Life Insurance Company,
\$ .....	in consideration of the sum of ——— dollars and ——— cents, to them
SUM INSURED.	in hand paid by ——— and of the annual premium of ——— dollars
\$ .....	and ——— cents, to be paid on or before the ——— day of ——— in
AGE. YEARS.	every year or within thirty days thereof during the continuance of this
	policy, <i>Do Assure</i> the Life of ——— of ——— in the County of ———
	State of ——— in the amount of ——— dollars for the term of ———

And the said Company do hereby *Promise and Agree*, to and with the said assured, ——— executors, administrators, and assigns, well and truly to pay, or cause to be paid, the said sum insured to the said assured, ——— executors, administrators, or assigns, within sixty days after satisfactory proof of the death of the said ——— shall have been furnished to the said Company at their office in New York.

*Provided Always*, and it is hereby declared to be the true intent and meaning of this Policy, and the same is accepted by the assured upon these express conditions, that in case the said ——— shall die upon the seas, or shall, without the consent of this Company previously obtained and endorsed upon this Policy, pass beyond the settled limits of the United States (excepting into the settled limits of the British Provinces of the two Canadas, Nova Scotia, or New Brunswick,) or shall, without such previous consent thus endorsed, visit those parts of the United States which lie west of the 100th degree of west longitude, or between the first of July and the first of November, those parts which lie south of the southern boundaries of the States of Virginia and Kentucky, or shall, without such previous consent thus endorsed, enter into any military or naval service whatsoever, (the militia not in actual service excepted;) or in case he shall die by his own hand, or by the hands of justice; or in consequence of a duel, or the violation of any law of these States, or of the United States, or of the said provinces, or of any other Country which he may be permitted under this Policy to visit or reside in, this Policy shall be void, null and of no effect.

Nevertheless, permission is given to the aforesaid to make one voyage in each year, in whole decked or steam vessels, to and from Europe, and to reside there without payment of extra premium, anything contained in this Policy to the contrary notwithstanding.

*And it is also Understood and Agreed*, to be the true intent and meaning hereof, that if the declaration made by the said ——— and bearing date the ——— day of ——— 18— and upon the faith of which this agreement is made, shall be found in any respect untrue, then, and in such case, this Policy shall be null and void; or in case the said ——— shall not pay the said annual premium on or before the day hereinbefore mentioned for



the payment thereof, or within thirty days thereof, then, and in every such case, the said Company shall not be liable to the payment of the sum insured, or any part thereof: and this Policy shall cease and determine.

And it is further agreed, that in every case where this Policy shall cease, or become or be null or void, all previous payments made thereon shall be forfeited to the said Company.

In Witness Whereof, the said Liverpool and London Insurance Company have, by three of their Directors, signed and delivered this Contract, this ——— day of ——— one thousand eight hundred and ———

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Resident Secretary.

The second volume of Tuckett's Monthly Insurance Journal closed, and the life of its founder and editor closed with it. January 2, 1854, in loneliness, in poverty, in calm and high resignation, the knightly spirit of Harvey G. Tuckett passed onward. With a word of faith where there might have been distrust, he came to the shadows which were settling on the long romance—India, England, America;—the varied warfare was over, the strange exile was at rest.

For the purpose of "primary instruction" the editor of the Journal had begun the preparation of a small work, with the necessary tables, rules, and examples, to be entitled Tuckett's Arithmetic of Life Insurance. Its completion appears to have been near at hand when its author was attacked with his last illness. Though the Journal was continued, the Arithmetic was never concluded, and the promised work never appeared in print in any form. There had appeared in London, in 1844, the Arithmetic of Annuities and Life Assurance, or Compound Interest Simplified, by Edward Baylis; and also the Value of Annuities and Reversionary Payments, with Numerous Tables, by David Jones; but without reference to other works, William Dale had published in London, in 1772, his Calculations deduced from First Principles; "for the use of the Societies instituted for the benefit of old age." Baylis's Arithmetic applied the Northampton table, giving processes for computing year by year annuity and insurance values on single lives, or joint-lives of like or different ages, with rules for applying the basis columns or tables in calculating different present values. Not introducing the subsidiary columns, afterwards entitled Commutation, the elements of the life insurance calculus were distinctly kept before the mind of the student of Baylis. Jones's work proceeded more upon Carlisle than Northampton data. It introduced as "Preparatory Tables" for finding the values of annuities, insurances, etc., the D, N, S, M, and R columns. (This method proceeds from two columns respectively marked D and C.) The C column was absent, but the M column was defined as "formed by multiplying the decrements opposite each age in Table 1 [number of *deaths* at age per table] by the present value of £1 due the same number of years as the age increased by unity [*i. e.* the C column], and taking the successive sums from the extremity of life, as in the formation of column N from the numbers in column D." It was previously explained that the "number in column D opposite any age is the product obtained by multiplying the number *living* opposite that age in Table 1 by the present value of £1 due the same number of years as the age; thus at the age of 30 the number living by Table 1 [Carlisle] is 5,642, and the present value of £1 due at the end of 30 years is, by Table 4, .30831867 [4 per

cent.]. The product of these two numbers = 1739.53393, which is the number in Table 13 under column D, opposite the age of 30." N as a summation of D, "was found by beginning at the oldest age, and taking the successive sums of the numbers in column D, the number of column N at any age being the sum of the numbers in column D at all the ages above the given one." "Column S is the sum of the number at any given age and at all ages above in column N, and column R is the sum of all the numbers in column M at any given age and above." S was applied for increasing and decreasing annuities, R for increasing and decreasing insurances. William Dale was the first to produce a D and an N column.

In the Journal, Captain Tuckett had given rules, with examples, for use of the Carlisle table of life annuity values (single lives) in the calculation of single and annual net premiums. Thus, given age and rate of interest, value of perpetuity being, say  $P$ , and present value of annuity  $pa$ , single premium was

$$\frac{P - pa}{P + 1}$$

Single premium divided by  $pa + 1$  gave the annual premium. In another way, subtracting from unity present value of \$1 due in one year, and multiplying the difference by present value of \$1 per annum on the given life plus unity, such product subtracted from unity would give single premium; and dividing unity by the present value of \$1 annuity on the given age plus unity, and from such quotient subtracting the difference between unity and present value of \$1 due in one year, would give the uniform annual premium. For the uniform single and annual premium on two *joint*-lives, the annuity values of the joint lives were used. Tuckett proposed simple numerical processes, dispensing with notation, *i. e.* a practical book for persons acquainted only with the first four rules of arithmetic and the practice of decimals. This would have admitted of the use of the subsidiary commutation tables, *i. e.*, age 30, for single premium divide the number in column M opposite age 30 by the number in column D opposite age 30. For annual premium, M 30 should be divided by  $N_{29}^* \left( \frac{M_{30}}{N_{29}} \right)$ . The compiler of the proposed Arithmetic was (perhaps somewhat vaguely) in favor of net valuations against the prevailing practice of gross valuations, which had grown up in England upon the discovery that the Carlisle table produced somewhat higher net values than the Northampton; and value as a question of net annual premium difference between age at insurance and age at valuation was solved by the tables thus: Insurance at age 35, valued at 45, multiply  $D_{35}$  by  $N_{44}$  (Davies-Jones arrangement), subtract this product from the product of  $D_{45}$  by  $N_{34}$ , and divide the difference by the latter product.

The crudities of Tuckett were an aid to the popular presentation of a subject, and his purpose to prepare a book "which would be found the best introduction to the works necessary to be consulted by those who desire to become proficient in the science of life insurance," defeated by his death, was a loss to *real* life insurance education, to which it would, with all its errors,

\* Instead of  $N_{29}$ ,  $N_{30}$  should have been adopted, if the arrangement of Jones should not have been accepted. Jones followed Griffith Davies (1825) in advancing columns N and S "one step up," *i. e.* receding one year.

have been a stimulus. That phenomenon of society in which *education* is pushed ahead of *knowledge*, whereby there is much to be unlearned before actual truth can be reached, made up much of the insurance status and animus.

A Keystone Mutual Life Insurance Company of Harrisburg, chartered in 1850, began to operate in Philadelphia, with Foss & Farr as agents. The Keystone followed the standard rates, and had attempted some special ratings for difference in occupation. It was most conspicuous for a litigation which involved particular contingencies besetting the life policy:

William Callender came to Harrisburg, March 26, 1851, and effected an insurance on his life for one year in the Keystone for \$5,000. He died next day before reaching home, and an analysis of the contents of the stomach was made by Dr. Bridges, of Philadelphia, who pronounced arsenic to be present. Hartmann, administrator of Callender, brought suit in the Common Pleas of Dauphin county. The company, in defence, pleaded that at the time of effecting the insurance Callender misrepresented his occupation, stating that he was a farmer, whereas it was alleged he was engaged in the business of slave-catching. And it was further alleged that he was also engaged in running cars on the railroad. It was also pleaded that the insured had committed suicide.

January 19, 1853, a notice was given that the defendant would offer in evidence its different rates of premium, depending on the occupation of the insured, and that the company did not or would not insure any person engaged in running cars upon the railroad, or occupied in such business, at the rate of premium charged in this case.

In replication to plea it was denied that the occupation was misrepresented. On the trial the policy was read on part of the plaintiff, and his counsel rested.

On part of defendant evidence was given of the post-mortem examination of the body of Callender and of his stomach, and of the detection of arsenic in it; also of his purchase of arsenic in Harrisburg at about 8 A. M. on the day of his effecting the insurance. It was also testified that Callender, about 9 o'clock of that day, inquired of the witness as to the manner of obtaining an insurance, and that the witness advised the insurance; that in the course of such conversation Callender inquired the effect upon the insurance if the person insured committed suicide. He left Harrisburg on horseback about one o'clock on the day of his insuring, for his home at York; he was ill on the way, and died during the night next following.

To support the issue under the second plea, evidence was given to show that Callender was concerned in hunting runaway slaves—an occupation the risk of which was not within the "extra" charges. A witness testified, however, that he knew Callender to be farming in 1843 or 1844, and that the witness had made a bargain with him in the fall of 1850, to farm some land on shares; that he had bought a house and made arrangements to get another person to plow his corn ground in the spring of 1851. It was further testified that in the fall of 1850 Callender had also made arrangements for making brick.



Pearson, J., charged the jury. In his answer to two of the points proposed on the part of the plaintiff, he said: If the premium would have been increased, or the company would have refused to insure altogether, had the true occupation been given, and a false one was stated, it would be such a falsehood as would vitiate the policy; that it need not be stated in the policy that it shall be void if any false representations are made; that the law requires the party to speak the truth; the conditions necessary to be inserted are those which are to void the policy if it be violated after it is given. Further: If there was the suppression of a material fact increasing the risk, or which, if disclosed, would have led to the demand of a higher premium, or caused the insurance to be refused altogether, it is fatal to the policy.

March 19, 1853, verdict was rendered for defendant.

In Error. Black, C. J.: . . . . . If the insured, who represented himself to be a farmer, was in fact a slave taker by occupation, and if the business of slave taking would expose his life to a greater danger than farming, it is not possible to escape the conclusion that the policy was thereby rendered void, since, if it was wilfully made, it was a fraud; and though made ignorantly, or by mistake, it was a warranty by the express terms of the policy. The plaintiff can only recover if the declaration of the assured, upon the faith of which the risk was taken, was strictly true in every material part. It will not do to say that this was immaterial. Every fact is material which increases the risk, or which, if disclosed, would have been a fair reason for demanding a higher premium. Nor is it of any consequence that the death was not, in fact, produced by a cause connected with the subject of the misrepresentation. One who falsely declares himself free from consumption cannot effect a valid insurance on his own life, though he die of cholera. A soldier or a sailor who warrants himself a merchant, has a void policy, even though he is not slain in battle or does not die at sea. In such cases the whole contract is entirely void, as much as if it had never been made, and, of course, it cannot derive any force or validity from subsequent events. *Clark vs. Manufacturers' Insurance Company* (8 How., 233), cited by the plaintiff for the contrary doctrine, does not sustain it.

It is contended that the misrepresentation, to be fatal, must relate to some fact which would not only increase the risk, but also induce the insurer to demand a higher premium. The authority produced in support of this, is the *Columbia Insurance Company vs. Lawrence* (2 Pet., 25; S. C., 10 Pet., 557). The opinion in that case is expressly grounded on the construction of what are called the "fundamental rules" of the company there sued, and has no application to the question here. The law undoubtedly is, that a policy like the present one will be vitiated by the misrepresentation of any fact which would increase the risk merely; and so the general rule was laid down by C. J. Marshall in the case cited. The policy before us provides that it shall be void if the declaration be found in any respect untrue. This, of course, does not include inaccuracies which are not material. But anything which increases the risk cannot be immaterial.

The conditions of the policy are, that it shall be null and void "if the assured shall die by his own hand, in or in consequence of a duel, or by the hands of justice," etc. The plaintiff argues that the first clause here quoted does not embrace a suicide committed by swallowing arsenic. Where parties have put their contract in writing, their rights are fixed by it. But the contract is what they meant it to be, and when we can ascertain their meaning from the words they have used, we must give it effect. One rule of interpretation is, that we must never attribute an absurd intent if a sensible one can be extracted from the writing. No absurdity could be greater than a stipulation against suicide in a duel. The words "die by his own hand" must, therefore be disconnected from those which follow. Standing alone, they mean any sort of suicide. Besides this, the court was very plainly right in charging that if no such condition had been inserted in the policy, a man who commits suicide is guilty of such a fraud upon the insurers of his life that his representatives cannot recover for that reason alone.

Judgment affirmed.\* Woodward, J., dissented. Lowrie, J., absent. (9 Harris, 466.)

January 1, 1854, the Penn Mutual Life had an amount of insurance in force exceeding the risks of any other Philadelphia life company; the American Life had written over a thousand policies; and the amount insured

\* Upon this judgment the defendant issued a *fi. fa.* against the plaintiff, Callender's administrator, for the costs, to be levied *de bonis propriis*. This involved the question as to whether an administrator plaintiff is personally liable to execution for the general costs of the cause on a verdict and general judgment in favor of the defendant. The Supreme Court, Lowrie J., in error to the Common Pleas of Dauphin county, held that a general judgment against an administrator plaintiff for costs is a judgment against the estate only, and an execution issued thereon against him personally is erroneous. Black, C. J., and Knox, J., dissented.

on the outstanding risks of the United States Life and Annuity, with bonus additions to policies, was \$2,463,607. These three offices now represented the active insurance work among the local life companies. The assets of the United States (including stock capital) were \$319,654.29; due from agents, \$11,795.62. Accumulations of the Penn Mutual were \$334,307.35. Dividends of the United States (reversionary) were still at 20 per cent. of premium; Penn Mutual now 25 per cent., and the scrip dividends of the Penn were now recognized as present values. Largely the policy issues of the American Life were non-dividend joint-stock and temperance. Annuities were at this period constituting the greater part of the operations in life contingencies of the Pennsylvania Company for Insurances on Lives and Granting Annuities. By a supplement to its charter approved March 26, 1853, the whole capital stock of this company was made inapplicable to its life or annuity business, being allotted as security for the faithful performance of the corporation's duties as executor or administrator. With the Episcopal Corporation the life policy was beginning to supersede annuity provision, and increasing surplus was increasing gratuities to beneficiaries.

The bonus declared by the Girard Life and Trust on whole-life policies for the five-year period ended in December, 1854, made the third of such reversionary dividends. The additions to the earlier policies produced by the three five-year bonuses were now exemplified as follows:—

Policy.	Amount Insured.	Total Bonus Additions.
89	\$2,500	\$812 50
132	3,000	975 00
199	1,000	325 00
333	5,000	1,500 00

The dividend rate for the third computation was thus largely reduced in comparison with the former dividends, the added reversionary value for the third five-year period being about  $6\frac{1}{4}$  per cent. of amount insured at the highest allotments. So far as the experiment had proceeded, it was equivalent to a reduction of about 24 per cent. of the premium on future insurance as to the earlier policies. Practically this was a tontine realization. As a life office the Girard was culminating.

The National Loan Fund Life Assurance Society had a larger amount of American life insurance in force than any other English office—about four million dollars. Its Philadelphia agents, Holbrooke, Lewis & Co. (also Philadelphia agents of the *Ætna* Life, of Hartford,) were the chief agents for the South and West. By an act of parliament (passed on petition of the society), which received the Royal assent July 3, 1855, the name was changed to International Life Assurance Society of London.\*

\* At the annual meeting of this society held in 1854, W. S. B. Woolhouse, the actuary, who had been a prominent member of the committee devising the Combined Experience mortality table, presented a report figuring a balance in favor of the society of £72,903 10s. 7d. This was done by valuing the future premiums in gross at £1,079,728 16s. 7d., against a present value of insurances, annuities, etc., at £1,096,236 6s. 10d. With the whole future premium receipts short of future tabular death payments and current claims by £16,507 10s. 3d., and management expenses to be otherwise met, there was "the sum of £63,788 3s. 10d. to be reserved for future profits" out of actually £140,621 19s. 0d. of invested assets, which included capital stock of £50,826 10s. The sum of the matter was, that in the alleged balance of "£72,903 10s. 7d." there were available for immediate dividend £9,115 6s. 9d. At the annual meeting following, the balance given was £67,695 16s. 7d.



In 1855 the Philadelphia office of the British Commercial Life was at No. 29 South Third street, William L. Manderson, agent.

Two cases in the District Court illustrated the inability of managers to grasp all the possibilities attendant upon the writing and issuing of policies. In one case a collateral life policy resting, as was supposed, upon a creditor's interest—difference between existing indebtedness and policy sum a margin for after-contingencies—was found to be but partly such a kind of policy. In the other case a policy was issued upon a corpse, and such occurrence was not necessarily illegal, but the company gained a verdict from the jury on the facts.

Policy was issued on the life of William Dyson, for \$1,000, by the American Life and Health. Dyson effected the insurance, paid the premium with his own money, and it appeared in evidence that it was his *intention* to secure, first, Joseph Robertshaw, to whom he was indebted \$140—the balance of the policy sum insuring to the benefit of his wife. It was testified that such purpose was stated in the hearing of the officers of the company, but the policy was drawn in the name of Robertshaw.

Loss occurred within the period stipulated, and suit was instituted in the District Court (Joseph Robertshaw, to the use, etc., plaintiff,) for the recovery of the full amount of the policy. The company resisted on the following grounds:—

1. The contract was with Robertshaw.
2. Robertshaw cannot recover beyond his interest.
3. The declaration attached to the application and signed by Dyson for Robertshaw was to the effect that Robertshaw was interested to the full amount insured on the life of Dyson, which was false, and avoids the policy.

#### Action of covenant.

The court charged the jury that such defence was not available. Jury found for plaintiff and for the whole amount of the policy. On motion for a new trial, the opinion of the court was delivered by Sharswood, P. J.:—

It is clear that a man may *bonâ fide* insure his own life, and direct the insurance money, in case of loss, to be paid to another as trustee.

Mr. Phillips remarks that there may be ground for doubt where the assured merely lends his name to another to make a gaming policy upon his life. But every life policy made by the assured upon his own life, is made for the benefit of others; and if a party so insures his life *bonâ fide* for the benefit of others, it seems not to be very material whether he pay the premium with his own money or borrows money for the purpose. (1 Phillips, 149.) . . . . . We have no such statute [as English statute of 14 G. II, ch. 48]. It is on the principles of public policy and good morals alone that our courts avoid wagering contracts. A man may make any other contract *bonâ fide* in the name of a friend, as a trustee for himself, or for such other lawful purposes as he chooses. Why may he not, for an honest purpose, use the name of a friend as a trustee for his family in the case of a contract of insurance? In the English case referred to it was decided that if upon a proposal and agreement for a life insurance, a policy be drawn up by the insurance office in a form which differs from the terms of the agreement and varies the rights of the parties assured, equity will interfere and deal with the case on the footing of the agreement, and not on that of the policy. That was, in effect, the case here, and it was so put to the jury. The contract was really made with Dyson; he insured his own life—the consideration moved from him—the company knew they were dealing with Dyson, they asked no questions—there was no fraud, misrepresentation or concealment. Had the insurance been effected by Robertshaw, without any mention of the interest of



any other, no doubt the objection would have been valid. It is true that in marine insurance, if a policy is effected by A, without saying as agent or for whom it may concern, the policy is only avoidable to the extent of the interest of A in the subject matter. There is good reason for that; it is a representation that he only is interested in the policy. But it remains to be decided, that if B, the owner of a ship, applies to an insurance company, pays the premium himself, and requests the company to make out the policy in the name of A, that such a policy is void. For myself, I can see no good reason why a man having an insurable interest may not insure it, and present the policy as a gift to a friend; and if such agreement to give be made at the very time of the contract, why may not the policy be made at once in the name of the donee, the whole transaction being *bonâ fide*—no fraud on the company intended? If so, it is a full answer to the third ground of objection made by the defendants to a recovery in this case. If Dyson, at the time of the contract, constituted Robertshaw his trustee to receive the money in trust, first to pay the debt he owed him, and as to the balance, to hold as trustee for Dyson's widow, then the declaration was true; he had an interest in Dyson's life to the full amount insured—the same interest which Dyson himself had. Rule refused.

The defendant then sued out writ of error, and raised by its specifications the same points made in the court below.

The opinion of the Supreme Court was delivered by Woodward, J. The judgment in this case is affirmed, for the reasons contained in the opinion of Judge Sharswood on the motion for a new trial. (2 Casey, 189.)

Clementine Lefavour died January 4, 1852, in child-birth. She had effected insurance on her life in the Philadelphia Fire and Life Insurance Company, in her own favor, in the sum of \$1,000. Policy was executed and delivered January 5, 1852, (the company not knowing of her death,) but was dated December 31, 1851. In the action on the policy in the District Court, plaintiff (Daniel Lefavour, husband of Clementine,) alleged that a contract was made by a duly authorized agent of the defendant December 16—proposal made by Lefavour in behalf of his wife—and preliminary certificates and examinations being completed, the company allowed the plaintiff time to pay premium. Lefavour further said: "On Monday I called at the office of the defendant in the forenoon; as I came in, the agent called me and introduced me to Mr. Blackburne, the secretary. One of them—I don't know which—said, 'You have called for your wife's policy'; some one said, 'It will be ready in fifteen minutes,' I paid the money, over five dollars, and Mr. Blackburne stepped up from behind the counter, about the time of signing the policy, and said, 'We shall date this December 31, because it comes under last year's business'; I said, 'Very well.'" Secretary Blackburne said he dated the policy back at Lefavour's request, Lefavour telling him that the agent had explained to him the advantage of having the policy dated in that year, and Mr. McCullough, the agent, testified that he did make such an explanation to Lefavour.

The grounds of the defence were:—

1. Concealment of a fact material to the risk—pregnancy.
2. McCullough had no authority to make any contract.
3. There was no contract.

Judge Sharswood, in his charge to the jury, said:—

If there were no prior contract [prior to the execution of the policy] between the parties, of which the policy was but the formal acknowledgment and evidence, then the policy, without any question, was void. It was void because issued to a person not in existence, upon a life already ended; because of the concealment of a most material fact, of which the company ought to have been informed. If this was the first and only contract, the agreement of the company, with the fact of the death concealed from them, to *antedate* for any reason, good or bad, will not alter the case.

The important question in the case, then, is: Was there a contract between these parties complete before the death of Mrs. Lefavour? If there was, then the fact of the death of Mrs. Lefavour was altogether immaterial. Daniel Lefavour was not bound to communicate it, and the policy being a mere formal recognition of an engagement binding on the company, and being dated prior to Mrs. Lefavour's death, may well stand.

The fact here alleged to have been concealed was the pregnancy of Mrs. Lefavour, and that she was within a short period of the time of her confinement. It is not alleged by the defendants that the lives of married women are not insured by them, and that the perils of child-birth are not covered by the policy. No warranty against it is to be found in the policy; no one of the questions required to be answered seems to be intended to reach it. The certificate of the physician selected by the company has been given in evidence, and aware, as he ought to have been, if he performed his duty, of the situation of the woman, he reported to the company that the life was a good one. She was a young woman, and it does not appear but that she was a vigorous woman. She had already borne one child in safety, so that there was no constitutional impediment. In insuring the life of a young married woman for the whole term of her life, the company must be presumed to know that in the ordinary course of things it is a peril she must expect frequently to encounter. Was this, then, a fact material to the risk? This is a question which the jury are to decide. If material, was it concealed?

According to the testimony of McCullough, he particularly pointed to that clause in the printed book: "Policies do not take effect and are not binding until the premium is paid to the company." Plaintiff's counsel says true, but it does not follow that when the premium is paid, the contract does take effect from the time it was entered into, and not merely from the time of payment. I think this is so. It would certainly be so, if the company issued the policy and expressly agreed to give time for the payment of the premium.

But if there was no agreement on the part of the agent, on behalf of the company, to make the assurance, and waiving the present payment of premium—if the insurance was in the ordinary manner, and was the mere reception and transmission of proposals to be examined and approved, then there was no contract until the proposals were accepted. This point you must determine from the evidence before you.

The jury found for the defendant company.

Life insurance organization had passed through a speculative period before the fire-marine speculation in Philadelphia began. New life companies were not now contemplated, and the life risk as an adjunct to other risks was not found available to the average adventurer in the business. Futile efforts were ceasing. The life department of the Odd Fellows' Mutual was found to be an impracticability, and but a meagre number of life risks were gathered in by the Farmers and Mechanics'. The Howard Life, of New York, which had some Philadelphia business, reinsured, in January, 1856, its risks in the United States Life, of the same city, and the directors of the Howard organized the Hope Fire Insurance Company of New York. A few months previous the Hartford Life, of Hartford, not unknown in Philadelphia, made an effort to prolong its existence by exacting from the members of its mutual department full cash payment in renewal of premium. The life risks of the National Safety Fund, of Philadelphia, were in the course of transference to the American Life.

General agencies of life companies were now in the course of organization. The extent of territory assigned to such agencies was an indication that the life insurance work was to be pursued outside of the home districts of offices in a more thorough and comprehensive manner, though the legislation of different States was becoming somewhat more restrictive.\* (The Mutual Life was testing

\* "The legislation of most of the other States of the Union upon the subject of life insurance has become so stringent that the company is almost necessarily confined in its operations to the commonwealth of Massachusetts." (Eleventh An. Rep. State Mutual Life Ins. Co. of Worcester, Mass., June 5, 1856.)



the availability of different forms of possible life insurance, including single premium deposits.) About one and a half million dollars were now written annually on Philadelphia life risks—approximately one-third of this amount by the agencies. At the close of 1856 the United States Life and Annuity valued its total assets, including capital, at \$635,369.75. Assets of the Penn Mutual Life, apart from the \$100,000 guarantee capital, were \$611,225.03, and the scrip of this company (1850–56 inclusive) was selling at 72 per cent.; a higher figure than any other Philadelphia insurance scrip. The 80 per cent. scrip dividends of 1848 and 1849, of the Penn, had been redeemed in cash. The Southern department of the United States Life and Annuity had become an important part of the company's operations. In the five years of its business this company had paid claims having, possibly, a larger percentage of the speculative element than had fallen to the share of any other American life company. In respect to the matirements under its policies the management said: "The company has, within the past five years, paid to the representatives of one hundred and fifty-one insured members upwards of \$198,000, and of this sum upwards of \$75,000 have been paid to commercial men who prudently relied upon life insurance as a safe security."

In 1857 the Philadelphia Fire and Life had ceased to write life policies. The stock of the company was selling at \$4.50 per share. This year the Charter Oak Life, of Hartford, was added to the licensed city life agencies. The financial panic of the year was without notable effect on the life insurance situation.

The American Life was now declaring 10 per cent. dividends on a capital of \$100,000, the shares of which, at \$50 par, were selling at \$65 in June, 1858. Its policy issues had advanced to the rate of about three per day. The business of the Penn Mutual and the American was becoming non-local in increasing proportion.

Harvey G. Tuckett, in denouncing the returns first made by life companies under the Massachusetts statutes of May 18 and 22, 1852, as, with four exceptions, "disgraceful to the mathematical knowledge of the country," said, also: "Mr. Elizur Wright pretends to have understood (contrary to all other parties interested) the Massachusetts legislature to have meant by the second question [*i. e.* "present value of existing policies"] the present value of policies for *surrender*." To which Wright responded: "What else than the aggregates of the values for which the policies can be *equitably* surrendered, if at any time the holders should ask it, is the exact measure of the matured indebtedness of the company at that time?"

Necessarily a life policy is not a contract terminable at the option of the insurer, but such termination is unqualifiedly and legally at the choice of the policyholder. Assurer and assured stood, however, upon equal ground, for in event of the assured failing to continue policy by payment of premium due, the lapse of the policy left the holder without any claim for what may be styled unearned premium; and such condition or forfeiture was expressly stated or stipulated. So, if the diseased life held the company unswervingly



to the contract, the healthy life could not with complete impunity desert the company. But competition brought concessions; the ability, need or convenience of the premium payer, to say nothing of changing moods, made settlement on some basis recognizing the policy as an earned value desirable. It would induce persons to become insured at whole-life rates, for a longer or shorter term of years, who otherwise would not become insured at all. For such agreement there was, however, no real basis in the nature of the life insurance economy; which is a combination in which the survivor stands, or should stand, by the dying; for a company to contract that the living should desert the dying was a false principle. But principle gave way to trade necessity and other influences. Presumably the "value" of a policy was in hand for distribution, though such value had been built up for the exclusive purpose of *fulfilling* the policy as an endowment.

In Philadelphia, policies were so cancelled upon the company returning to the holders from 30 per cent. upwards of gross premiums received. The situation was materially different between dividends as reversions attached to policy and where dividend had been paid as present value.\*

Making greater financial than insurance progress, the Penn Mutual's accumulations reached \$937,691.52 at the close of 1859, against \$612,725.03 of accumulations at the close of 1856. The premium receipts of 1856 were \$152,629.69; of 1859, \$156,010.21. By the twelfth annual statement, the business of the company in 1859 and the position at the close were in part shown as follows:

TWELFTH ANNUAL REPORT OF THE PENN MUTUAL LIFE INSURANCE COMPANY.

Amount of assets, January 1, 1859, . . . . .	\$802,225 26
Amount of premiums received during the year ending January 1, 1860, . . . . .	\$156,010 21
Amount of interest received and accrued during the year ending January 1, 1860, . . . . .	65,268 24
Amount of scrip dividends on purchased policies transferred to the company during the year ending January 1, 1860, . . . .	12,630 00
	<hr/> 233,908 45
	\$1,036,133 71

\* In February, 1858, The Mutual Life, of New York, announced that "On each policy for the full term of life which has run two years or more, this company will issue, on application, a certificate of its cash value. As this certificate will be for the sum which this company would pay for the policy if surrendered, it will be seen that it constitutes the policy (on which said certificate is regularly issued) perfect security for the amount expressed in the certificate, and renders the policy, when duly assigned, accompanied by the certificate, available in obtaining loans, and in other ways, where perfectly reliable and convertible security is required,

"The company will grant a new policy, which, without further payment, will assure to the representatives of the party, at his death, a reversionary sum equivalent to the present value of the policy on surrender." For example, policy of \$5,000, annual premium, age 30, \$115.10; after ten annual payments (\$1,151.00), surrender value, present payment, \$409.08,—reversionary value, \$964.28.

We add these examples of annual and single premiums of The Mutual Life at this date; insurance \$1 000:—

	Whole life.	Ten-year payments.	Five-year payments.	Single payment.
Age 20, . . . . .	\$17.30	\$37.87	\$65.07	\$286.56
30, . . . . .	23.02	46.51	79.46	348.30
40, . . . . .	31.73	57.45	97.37	424.23
50, . . . . .	46.42	72.81	120.51	518.75
56, . . . . .	60.25	83.98	137.32	583.19

Women from age 18 to 48 inclusive are charged  $\frac{1}{2}$  per cent. extra.

*Disbursements.*

Amount paid for losses by death, . . . . .	\$40,200 00	
Amount paid for interest on dividends, and guarantee capital, . .	18,010 10	
Amount paid for salaries, fees to physicians, advertising and printing, etc., . . . . .	10,817 25	
Amount paid for office rent, State and city taxes, taxes on dividends, etc., . . . . .	2,326 82	
Amount paid for reinsurance, and interest on temporary loans, etc., . . . . .	2,638 17	
Amount paid for commissions, advertising, exchanges, medical examinations, postages, etc., . . . . .	9,478 46	
Amount of cancelled notes, and return premiums on cancelled policies, . . . . .	14,951 39	
		98,422 19
Deduct scrip 1849 paid in year 1859, . . . . .		\$937,711 52
		20 00
Accumulated fund, January 1, 1860, . . . . .		\$937,691 52

*Assets.*

Cash on hand and in bank, . . . . .	\$32,108 47	
United States Treasury notes, bonds of the State of Pennsylvania, city of Philadelphia, etc., . . . . .	167,717 59	
Pittsburgh, Allegheny, Washington County bonds, and Pennsylvania Railroad, North Pennsylvania and Union Canal do., . . . . .	105,802 50	
Bank stocks, Pennsylvania Railroad, and stock of life insurance companies, . . . . .	62,417 90	
Bonds and mortgages, and real estate, . . . . .	287,807 63	
Premium notes, loans on collaterals, policies, &c., . . . . .	253,771 69	
Balances in hands of agents, and quarterly and semi-annual premiums, due after January 1, 1860, . . . . .	30,065 74	
		\$939,691 52
Deduct two losses due in January, 1860, . . . . .		2,000 00
		\$937,691 52

Extra scrip dividend of 15 per cent. was declared upon the all-cash premiums paid on each policy to January, 1859.

The insurances of the Penn Mutual had become nearly all whole life, and the sole policy blank was in these terms:—

No.

THE PENN MUTUAL LIFE INSURANCE COMPANY.

This Policy of Insurance

*Witnesseth That*

The Penn Mutual Life Insurance Company,

ANNUAL PREMIUM, In consideration of the annual premium or sum of ——— dollars and ——— cents, to them in hand paid by ——— in the manner and form following, to wit:

\$ ———  
in each and every year during the continuance of this Policy,

SUM INSURED, Do Assure the life of ——— of ——— in the County of ——— State of ——— in the amount of ——— Dollars, for the term of ———


\$ ——— And the said Company do hereby *Promise and Agree*, to and with the said assured, ——— executors, administrators and assigns, well and truly to pay, or cause to be paid, the said sum insured, to ——— executors, administrators or assigns, within sixty days after due notice, and proof of the death of the said ——— First deducting the unpaid Premium for the current year.

*Provided Always*, and it is hereby declared to be the true intent and meaning of this Policy, and the same is accepted by the assured upon these express conditions, that in case the said ——— shall die upon the seas, or shall, without the consent of this Company, previously obtained and endorsed upon this Policy, pass either by sea or land, beyond the settled limits of the United States, (excepting into the settled limits of the British Provinces of the two Canadas, Nova Scotia or New Brunswick,) or shall, without such previous consent, thus endorsed, visit those parts of the United States which lie south of the southern boundaries of the States of Virginia and Kentucky, between the first of July and the first

of November, or shall, without such previous consent, thus endorsed, pass to or west of the Rocky Mountains, or shall, without such previous consent, thus endorsed, enter into any military or naval service whatsoever, (the militia not in actual service excepted,) or shall, without such previous consent, thus endorsed, be personally employed as an engineer or fireman in charge of a steam engine, or as conductor or brakeman upon a railroad, or as an officer, hand or servant of any steam vessel, or in the manufacture or transportation of gunpowder, or in case he shall die by his own hand, whether sane or insane, or in, or in consequence of a duel, or by the hands of justice, or in the known violation of any law of any of these States, or of the United States, or of any State or country, this Policy shall be void, null, and of no effect.

*And it is also Understood and Agreed* to be the true intent and meaning hereof, that if the declaration made by said ——— and bearing date the ——— day of ——— 18— and upon the faith of which this Agreement is made, shall be found in any respect untrue, then, and in such case, this Policy shall be null and void; or in case the said ——— shall not pay the said annual, semi-annual, or quarterly payments hereinbefore mentioned, on or before the several days appointed as aforesaid for the payment of the same, or shall fail to pay the interest on any premium note when due, or the assessments thereon within thirty days after said assessments become due, agreeably to the by-laws of this Company, then, and in every such case, the said Company shall not be liable to the payment of the sum insured, or any part thereof; and this policy shall cease and determine. And in all cases of loss, the amount of the premium notes, with interest due on the same, shall be deducted from the amount insured.

*And it is further Agreed*, that in every case where this Policy shall cease and determine, or become or be null and void, (except in case of death,) all previous payments made thereon, and all profits for which scrip has not been issued, shall be forfeited to the said Company.

 No assignment of this Policy shall be of any force or effect, unless approved by the Company, and endorsed thereon by the Secretary or other authorized officer, within thirty days from the date thereof; otherwise the premium shall be considered sunk for the benefit of the Assurers.

*In Witness Whereof*, the President and Actuary of the said Penn Mutual Life Insurance Company have hereunto subscribed their names, and caused the Common Seal of the said Company to be affixed, attested by the Secretary, at their office in Philadelphia, this ——— day of ——— one thousand eight hundred and ———.

Attest,

—————Secretary.

—————President.

—————Actuary.

#### PROOFS OF LOSS REQUIRED.

1st. A certificate of the Physician who attended the Insured at his last illness, stating particularly the nature of the disease, its duration, and the time he died; his apparent age, height, and general appearance.

2d. A certificate of a friend, or intimate acquaintance, stating the disease of which the Insured died, how long he was sick, and that he was present at the time of his death, or that he is knowing to the fact of his death.

3d. A certificate of the Undertaker or Sexton who attended the funeral of the Insured, and saw his remains interred, stating his apparent age, height, and general appearance.

These several certificates must be sworn or affirmed to before a magistrate, or some public officer empowered to administer an oath, and accompanied by a certificate of the authority of the officer administering the oath, with the seal attached, according to Act of Congress.

In December, 1859, the fourth quinquennial bonus of the Girard Life was declared, which applied to all outstanding policies in force prior to January 1, 1857. To policies issued in 1852, 10½ per cent. was added to amount insured; 9 per cent. was added to those issued in 1853, and 7½ per cent. to "those issued in 1854, as well as all policies which participated in the last bonus, that of December, 1854." The several bonuses had now added 40 per cent. to the insurance of all policies in force issued in 1836. "In addition to which, on all the above named policies on which a future annual premium shall be paid, and on all other life policies after they have stood three years and shall become claims within the next five years, there will be paid a further bonus, for every such premium in the same ratio as that now declared." For



year 1859 the United States Life made its dividend as reversion to amount of 25 per cent. of premium.

For the year ended November 30, 1860, tax was received by the auditor-general of the State on \$4,410 of annual premium from the Philadelphia agency of the Connecticut Mutual Life; on \$314 of premium received by the agency of the Mutual Benefit Life, of Newark; on \$32,050 of premium from such agency of The Mutual Life, of New York;\* on \$1,983 of premium from the agency of the New York Life.† On the question as to whether the tax was to be paid on premium notes or cash premiums merely, and interest on premium notes, the wording of the law was, as partly before quoted, that the agent "shall retain in his hands out of every dollar received by him for premiums, gross sums paid for annuities, and on all commissions for executing trusts, the sum of three cents, which said sum shall be paid to the treasurer of the commonwealth at the time of furnishing the annual statement."

The New England Mutual, of Boston, represented by William Getty, was a recent addition to the licensed life agencies; the others were, apart from three English fire and life offices, The Mutual Life, of New York, F. Ratchford Starr; the Mutual Benefit, of Newark, William D. Sherrerd; the New York

\* The Mutual Life, of New York, issued, in its total business in 1860, 1,564 whole-life policies, insuring \$4,605,291, and 137 endowment policies, insuring \$446,000. By the Connecticut Mutual, 1,525 whole-life policies were issued this year, insuring \$4,483,570, and 19 short-term policies, insuring \$95,650. The New York insurance department was established in 1859, and was the second State insurance department created, that of Massachusetts being the first. Net valuation of, or reserve upon, the 10,959 whole-life policies of The Mutual Life in force November 1, 1859, by the Massachusetts insurance department, using the Combined Experience table with 4 per cent. interest, was as follows:—

Issued in year ended November 1.	Number of policies.	Amount insured.	Net value.	Per cent. of net value to amount insured.
1843, . . . . .	114	\$ 495,713 59	\$163,060 37	32.89
1844, . . . . .	144	580,376 89	176,620 70	30.43
1845, . . . . .	315	1,156,448 37	331,220 58	28.64
1846, . . . . .	365	1,112,239 01	299,100 99	26.89
1847, . . . . .	440	1,534,302 80	365,078 98	23.79
1848, . . . . .	532	1,631,585 26	393,440 63	24.11
1849, . . . . .	619	1,852,208 86	389,581 75	21.03
1850, . . . . .	549	1,511,033 73	289,976 92	19.19
1851, . . . . .	376	1,000,571 00	198,359 20	19.83
1852, . . . . .	421	1,311,149 16	200,188 73	15.27
1853, . . . . .	576	1,773,626 91	237,690 49	13.40
1854, . . . . .	726	2,239,444 21	256,450 03	11.45
1855, . . . . .	830	3,063,929 48	278,078 79	9.07
1856, . . . . .	1,151	3,594,696 05	262,901 54	7.31
1857, . . . . .	1,126	3,589,778 71	175,170 82	4.88
1858, . . . . .	1,246	3,973,441 36	125,990 10	3.17
1859, . . . . .	1,489	4,550,180 00	77,575 30	1.70
	10,959	\$34,970,728 39	\$4,220,485 92	12.07

Earliest valued policies of the Connecticut Mutual, year 1847; total insurance in force, 1859, \$22,361,004; net value, 10.49 per cent. Manhattan Life, New York, 1850-59, 5.80 per cent.; National Life, Vermont, 1850-59, 6.90 per cent., etc.

No Philadelphia life insurance company was authorized to transact business in New York or Massachusetts.

† The New York Life arranged to redeem its scrip dividends issued between 1850 and 1860 by paying off 20 per cent. in 1862 and 20 per cent. in each of the four years following. Subsequent scrip dividend issues were to be redeemed in the fifth year from issue of scrip. It was declared that "the redemption will be in cash to those holding certificates, and to those giving premium notes, fifteen per cent. will be endorsed thereon, five per cent. allowed in cash in settlement of next premium until the dividends to 1860 (inclusive) are paid off; thereafter, say commencing with that of 1861, the entire dividend will be applicable to the reduction of notes."

Life, Thomas J. Lancaster; the Union Mutual, of Maine, Sabine & Duy; the Connecticut Mutual, Albra Wadleigh, and the International, of London, Holbrooke, Lewis & Co.

There were 11,568 deaths in Philadelphia in 1860, including still-born; these occurring in a population, by the United States census, of 565,529;—white 543,344, colored 22,185. In such total population there were 260,156 white males and 283,188 white females; 9,177 colored males and 13,008 colored females. Of the deaths 10,949 were of whites and 619 colored. By sexes the deaths were, male 6,109, female 5,459. This was a male mortality of 23.5 per 1,000 of male population, and 19.3 per 1,000 of female population, still-born being included. The colored mortality, both sexes, was 27.9 per 1,000 of such population.

The general mortality by age groups was as follows for the combined sexes, and white and colored together, compared with the Combined Experience ratio as well as the Carlisle—the former table now superseding the latter in the life insurance computations:—

AGES.	Living.	Dying.	Death rate per cent.	Carlisle ratio.	Combined Experience ratio.
Under 5 years, . . . . .	78,971	5,704	7.223	7.906	. . .
5 and under 10, . . . . .	65,933	533	0.808	1.018	. . .
10 to 15, . . . . .	55,443	176	0.323	0.500	0.682
15 to 20, . . . . .	55,086	306	0.555	0.675	0.707
20 to 30, . . . . .	115,787	1,109	0.958	0.760	0.774
30 to 40, . . . . .	86,993	1,000	1.149	1.052	0.921
40 to 50, . . . . .	53,656	812	1.513	1.423	1.222
50 to 60, . . . . .	29,467	596	2.023	1.841	2.120
60 to 70, . . . . .	16,149	591	3.659	4.029	4.242
70 to 80, . . . . .	6,177	426	6.897	8.273	8.883
80 to 90, . . . . .	1,621	241	14.867	15.632	17.952
90 and above, . . . . .	246	74	30.081	26.443	38.254
	565,529	11,568	2.046	. . .	. . .

This mortality of 2.046 per cent. was against 2.081 per cent. in 1850. The deaths of 1850 were, therefore, greater by 3.6 persons in 10,000 of population. Deaths of the population in 1850 and 1860, as aged, compare as follows in ratio:—

	Death Rate, Per Cent.	
	1850.	1860.
Under 5 years, . . . . .	8.448	7.223
5 and under 10, . . . . .	0.880	0.808
10 to 15, . . . . .	0.348	0.323
15 to 20, . . . . .	0.505	0.555
20 to 30, . . . . .	0.832	0.958
30 to 40, . . . . .	1.148	1.149
40 to 50, . . . . .	1.500	1.513
50 to 60, . . . . .	1.984	2.023
60 to 70, . . . . .	3.105	3.659
70 to 80, . . . . .	6.365	6.897
80 to 90, . . . . .	12.560	14.867
90 and above, . . . . .	8.639	30.081
	2.081	2.046

The death rates of 1860 express the normal mortality of the city when free from epidemics. Death rates of 90 years and above were, in 1850, an irregularity due to the uncertainty attending the enumerations of the oldest ages—octogenarians becoming imaginary nonagenarians, and nonagenarians becoming imaginary centenarians. By the figures, while the general population increased 39 per cent. from 1850 to 1860, people of 90 years of age and older *decreased* 46 per cent.

In comparison with the nonagenarian death force, all the diseases and epidemics in the world are feeble destructives of life.

In the decade ended with 1860 there was another visitation of the yellow-fever epidemic—the first after 103 cases and 67 deaths in 1820. The disease began at South street wharf in July, 1853, where the bark Mandarin had arrived from Cienfuegos, Cuba. Two of the crew died on the voyage by yellow fever, but at the Lazaretto the rest of the crew were found in good health. The vessel was ventilated, cleansed and fumigated three days before she came up the river, and the clothing of the dead sailors destroyed. July 13, the Mandarin reached South street wharf; on the 19th—the vessel then discharging her cargo at the first pier below Lombard street—a furniture-car driver, who had his stand on South street wharf, was taken with the fever, and died on the 26th. The captain of a British brig, which lay in a dock adjoining the Mandarin, died next. July 26, the Mandarin was removed by order of the Board of Health for purification. Other deaths followed of persons living in the immediate section, or happening to come into the neighborhood. No infection was communicated by a sick person. The epidemic ended October 12. There was a report of 170 cases. By the report of the Board of Health there were 26 yellow-fever deaths in 1853, when the deaths from all fevers were 1,020, rising from 884 in 1852. In 1854, in 581 deaths from fevers, 12 were denominated “yellow.”

“Insurance payable on attaining a given age, or sooner in event of death,” was urged by a few of the most effective solicitors as the seventh decade of the century opened. What is called life insurance is made up of two essentially distinctive parts: 1, payment contingent upon the occurrence of death; 2, the absolute payment at the end of a given term. The first is indemnification somewhat similar in character to what was established by marine insurance in its averaging and distributing of loss; the second is a mere stipulation for a certain payment, devoid of even the constructive indemnity of the former, and of all implied death contingency. Whole-life insurance is of this dual character, though the policy is not so as a contract. Given, for example, the Combined Experience table as the measure of vitality, \$1,000 assured upon the life of A at age 30, is mathematically due to A if surviving at end of age 99. It can be as readily computed and expressly contracted for, to make the sum payable due certainly at the end of any term of years within the maximum age of the table. Strictly, the absolute payment is an Endowment—the payment, due or not due within a named period, is insurance for the term. The endowment associated with term insurance had been projected in the United States, and as



simple term insurance fell into disuse, associated term insurance and endowment came into practice under the title Endowment. Premium for such was necessarily term premium plus the premium for simple endowment. Using Commutation columns, \$1 is insured at age 30, for whole term of life, for the net single premium of  $\frac{M_{30}}{D_{30}}$ , and for ten years the single premium is  $\frac{M_{30}-M_{40}}{D_{30}}$ , while the single premium for simple ten-year endowment from age 30 is  $\frac{D_{40}}{D_{30}}$ ; therefore,  $\frac{D_{40}}{D_{30}} + \frac{M_{30}-M_{40}}{D_{30}} =$  single premium for Endowment insurance at given age and term. Total figures to be used for computing net annual premium for such endowment are pointed out by the following symbols:—

$$\frac{D_{40}}{N_{30} - N_{40}} + \frac{M_{30} - M_{40}}{N_{30} - N_{40}} = \frac{D_{40} + M_{30} - M_{40}^*}{N_{30} - N_{40}} =$$

annual premium per dollar of insurance.

The character of the discounts represented by D, N, M, has been indicated; *i. e.* (interest being taken at 4 per cent.)  $D_{30} = 86,292$  (tabular number living at age 30), multiplied by  $(\frac{1}{1.04})^{30} \dagger = 26,605.44$ .  $N_{30} = D_{99} + D_{98} + D_{97} + \dots + D_{30}$ . M is similarly summed up from the Cs;  $C_{30} = 727$  (number dying at age 30) multiplied by  $(\frac{1}{1.04})^{30}$ —death payments being computed as taking place at end of year. Hence, while single premium is  $\frac{M}{D}$ , annual premium is  $\frac{M}{N}$ . Number of successive living is number of successive dollar premiums; number of successive dying is number of successive dollar losses. Reduced to present values, aggregate loss sum divided by aggregate premium sum defines the individual premium rate.

While the insurance of \$1,000 for ten years from age 30 was at the net rate per annum of \$8.80, the endowment maturing at the end of age 99 (whole life) was at the rate of \$16.97; but with the endowment maturing by age 40 the rate was \$84.54. Thereby, at the end of the tenth year, the values of the respective policies were: ten-year term = 0, whole life = \$107.91, ten-year endowment = \$1,000. Accumulation was to be the essential upbuilder of the life insurance security. The extended endowment of the whole-life policy—gradual and slow in growth—was, however, more within the capacity of the average life insurance management than the quicker consummation of the shorter term endowment. One form of insurance might be as technically correct as another (*i. e.* of like validity as to computation), and yet one be impracticable while the other was practicable. Simple term life insurance, freed from the burden of enhancing reserve liability, appeared upon the surface as of the most facile handling, and adapted to the widest application, but it has never passed beyond an experimental stage; nothing has been established respecting it, except that it is attended with the highest ratio of mortality known in legitimate life insurance experience, and that an office which should have nine-tenths of its insurances in non-endowment term policies would be always on the brink of collapse.

\* With the figures of the Combined Experience (4 per cent.) Commutation columns, this fraction and its equivalent annual premium are:

$$\frac{16,382.57 + 8,145.757 - 6,242.4238}{479,951.99 - 263,643.77} = 0.08454.$$

† This fractional product is .308309 or present value of \$1 due thirty years hence.

Term endowment insurances issued by the Penn Mutual Life were a specific stipulation inserted in the general life policy blank, of which the following was an example:—

The Penn Mutual Life Insurance Company, in consideration of the annual premium or sum of *Fifty-five* dollars and *Nine* cents to them in hand paid by *F. B.*, in manner and form following, to wit: *Fifty-five dollars and Nine cents in cash on the Eighteenth day of June*, in each and every year during the continuance of this Policy, Do Assure the life of *F. B.*, of *Philadelphia*, in the county of *Philadelphia*, of the State of *Pennsylvania*, in the amount of *One Thousand* dollars for the term of *Seventeen Years*.

And the said Company do hereby Promise and Agree to and with the said assured, *his* executors, administrators and assigns, well and truly to pay, or cause to be paid, the said sum insured to *the said F. B.*, *upon his arriving at the age of Forty Years; or in the event of the decease of the said F. B. before arriving at the said age of Forty Years, then to pay, or cause to be paid, the same to his executors, etc.*

By the close of 1860 the American Life had nearly 3,000 policies—joint-stock, total abstinence and mutual—in force, with an aggregate amount insured of about two and three-quarter million dollars. Deaths of policy-holders had reached and passed fifteen per annum. This company's total assets at the date named amounted to \$685,578.92. By any recognized mode of counting net value of outstanding policies, such value would have been less than \$200,000, and by capitalization of surplus the stock capital embraced \$250,000 of the total assets. Of the annual deaths, about 11 per cent. were due to casualties at home or abroad, by land or sea. In the non-mutual as well as the mutual policy of the American Life, the appended assignment blank transferred not only the right, title and interest of the assignor in the policy, but also his right, title and interest as to "the payments made therefor." From the general policy phraseology of the American Life we cite the following, to present the conformity and the contrast or diversity, when compared with the policy of the Penn Mutual, before introduced: (*Ante* 709.)

*Provided always*, and it is hereby declared to be the true intent and meaning of this policy, and the same is accepted by the insured upon these express conditions, that in case the said ——— shall, without the consent of this Company previously obtained and endorsed upon this policy, die upon the Seas, or pass beyond the settled limits of the United States, (excepting into the settled limits of the two Canadas, Nova Scotia, or New Brunswick,) or shall, without such previous consent thus endorsed, visit those parts of the United States which lie South of the Southern boundaries of the States of Virginia and Kentucky, between the first of June and the first of November, or shall, without such previous consent thus endorsed, pass to or West of the Rocky Mountains, or shall, without such previous consent thus endorsed, enter into any military or naval service whatsoever; (the militia not in actual service excepted;) or shall, without such previous consent thus endorsed, be personally employed as an Engineer or Fireman in running a Locomotive or Steam Engine, or as an Officer, or Conductor, or Brakeman upon a Rail Road, or as an Officer, Hand, or Servant of any Steam Vessel, or as a Miner, or Hand, or Officer, in any Coal or other Mine, or in the manufacture or transportation of Gunpowder, or in case ——— shall die by ——— own hand, whether sane or insane, or in consequence of a duel, or by the hands of justice, or in the known violation of any law of any of these States, or of the United States, or of any State or Country, this policy shall be void, null, and of no effect.

*And it is hereby Declared and Agreed*, That if the Proposals, Answers and Declarations made by the said ——— and bearing date the ——— day of ——— 186— upon the full faith of which this policy is issued, shall be found to be fraudulent or untrue in any respect, or that there is any wilful misrepresentation or concealment in said declarations, or in case the said ——— shall not pay the ——— premium as hereinbefore mentioned, on or before 12 o'clock (noon) on the several days specified and appointed for the payment of the same, then this policy shall be void and of no effect, and all payments made shall be forfeited to the Company.



*And it is also Agreed,* That this policy, and the insurance hereby effected, shall be subject to the several conditions and regulations printed on the back hereof, so far as the same can be applicable, in the same manner as if the same respectively were incorporated in this policy.

This policy shall not be valid until the actual payment of the premium has been made in cash—and receipted for at the bottom of this policy by ———, Agent for ———.

#### CONDITIONS.

I. Policies expire at noon on the last day of the period for which payment has been made.

II. If a change takes place in the name or in the residence of the insured, notice of such change must be given to the company.

III. Agents are not authorized to make contracts for the company, nor to write upon the policy, (except his signature when necessary to the first receipt of premium,—see condition No. V,) nor to waive forfeiture of the same.

IV. In the case of the assignment of a policy, (whether as security or otherwise,) satisfactory proofs of the amount of the assignee's interest in the insured life, must be furnished with the proofs of death.

V. Receipts for premiums, excepting the first, (to be found on the face of this policy,) will invariably be given on a separate paper, and will not be valid without the seal of the company.

#### PROOFS OF LOSS REQUIRED.

1. A certificate of the physician who attended the insured in ——— last illness, stating particularly the nature of the disease, its duration, and the date and hour of decease; ——— apparent age, height, complexion and general appearance.

2. Certificate of a friend or intimate acquaintance, stating the disease of which the party died, how long ——— was sick, a knowledge of such death, and how obtained, and the time of death.

3. Certificate of sexton or undertaker who superintended the funeral of insured, and saw ——— remains interred; stating apparent age, height, complexion and general appearance.

The said several certificates must be sworn or affirmed to, before some magistrate, or public officer empowered to administer an oath, accompanied by a certificate, in conformity to the Act of Congress, of the authority of the officer who administers the oath.

#### THE NECESSARY RECEIPT ON THE PAYMENT OF THE POLICY.

When it is a policy on the life of a husband, for the benefit of a wife, or the life of a wife for the benefit of a husband, or of a party insuring the life of another, or in case of an assigned policy, a receipt on the policy from the party legally entitled to the payment, is all that is required. But when a party insures his own life, in case of death the insurance must be collected by an executor or administrator legally authorized to settle the estate, and the *official* certificate of his appointment by the proper tribunal to that effect, must be presented at the office of the company with the policy duly receipted by said executor or administrator.

Acceptance of the premium due on this policy by the *company* or its *agents*, after the day *upon which it is due*, must be considered as acts of grace or courtesy, and *in no wise* to be construed as forming a precedent for future payments or a *waiver* of the forfeiture of the policy according to the conditions therein expressed, if any future payment of premium be omitted on the day it falls due. Agents of the company are in no case authorized to make, alter or discharge contracts or waiver forfeitures.

But the development of life insurance was now involved in the problem of public affairs. November 6, 1860, Abraham Lincoln and Hannibal Hamlin were respectively elected to the presidency and vice-presidency of the United States. December 20, the State convention of South Carolina unanimously adopted an ordinance "to dissolve the Union between the State of South Carolina and other States united with her under the Compact entitled 'the Constitution of the United States of America';" and political dissension was rising to an arbitrament of arms. At the initial signs of the war between seceding States and the Federal Union, attended with the stopping of commercial intercourse between the disaffected States and the States adhering to the



Union, trade for awhile was paralyzed, and business failures rapidly augmented in ratio. The Philadelphia banks suspended specie payments November 22, and a long demonetization of gold and silver was begun.

An association of life companies had met in New York. At the second annual meeting, May 24, 1860, twenty companies were represented, including the Penn Mutual and the Girard, of Philadelphia, and the Eagle and Albion and the Royal, of England. At the end of this year the eleven New York life offices had \$85,371,499.67 of life insurance in force, with \$12,772,622.09 of gross assets; four of the five authorized other-State companies (no Philadelphia office) had \$48,707,816.64 in force, with (in five companies) \$10,077,606.28 of gross assets; and to the insurance were to be added about \$27,000,000 in force in the Connecticut Mutual. Five English offices issuing life policies in New York, carried about ten millions of insurance on their American life policies. The four American life offices which had sixty-five millions of insurance in force in 1852, had now one hundred and eight millions in force—that is something more than one-half of the total amount covered by life policies in the United States at the close of 1860; the total life insurance fund accumulated was approximately twenty-five million dollars, and claims under policies paid were approaching two million dollars per annum. The future of this interest, respecting which it had been demonstrated that it could be both maintained and expanded under existing conditions, was now contingent upon the economic results and attendants upon the organization, equipment, and battles of armies and navies.

The uncertain Globe Insurance, Life Insurance, Trust and Annuity Company, in its last appearance before the public, was apparently something of a savings fund. There was a People's Insurance Company, which was a charter produced by the State legislature in 1860, but early in 1861 the People's Insurance Company and the Globe Insurance, Life Insurance, Trust and Annuity Company applied to the legislature, and set forth many reasons why the People's and the Globe aforesaid should be consolidated under the name of the Commercial Insurance Company. We have no more information to impart as to the relations of the Globe Insurance, etc., to the ice business than we have of its relations to the insurance business, but the annexed result of a prior application to the legislature does relate to the Globe, insurance-wise, or rather reinsurance-wise, and corporate privileges as assets:

A Supplement to an Act to incorporate the Philadelphia Ice Company, and for other purposes.

*Whereas*, By an act passed the fourth day of April, 1837, the Berks County Insurance Company was incorporated with power to insure against losses by fire, all kinds of buildings and merchandize, also to insure lives and grant annuities; and by supplement the name was changed to the Globe Insurance, Life Insurance, Trust and Annuity Company, with power to have an office in Philadelphia:

*And Whereas*, Said company, after having made insurances for life which are yet pending and to be provided for, were under the necessity, and did make a general assignment, and in order to be enabled to provide for the fulfilment of all their contracts, have desired to be enabled to make an assignment of their corporate privileges to some other insurance company, subject to the fulfilment of all their insurance and annuity contracts; therefore,

SECTION 1. Be it enacted, etc., That it shall be lawful for the assignee of the said Globe Insurance, Life Insurance, Trust and Annuity Company, to assign, transfer and set over unto any insurance company in the city of Philadelphia, all the rights, powers and privileges which said company heretofore held and enjoyed under their charter, or as fully as ever they held and enjoyed the same, and as if said company had and held said charter, but under and subject to the fulfilment of all the insurance and annuity contracts now obligatory on said Globe Insurance, Life Insurance, Trust and Annuity Company; *And provided further*, That the proceeds of the sale thereof shall in all respects be considered as assets of the said company at the hands of the said assignee, subject to the provisions of the said general assignment for the benefit of the creditors: *And provided further*, That nothing contained herein shall authorize the assignees of such insurance company to collect any assessments or dues on notes, or otherwise, from any policyholders of said company, except at the option of such person or persons insured. (Approved April 18, 1859.)

## CHAPTER VIII.

*The Surrender of Fort Sumter and the War Risk—Action of the Penn Mutual—Extra Premium for War Permits; the Regulations thereof—Embarrassment of the United States Life and Annuity—The Philadelphia Agencies—Valuations of the Policy Liabilities of the International Life, of London; the Question of Net and Gross Values—The War Risk Ratings of Different Companies—The Life Insurance Business in 1861—United States Notes and Loans—Policy Stamps—Operations of the Penn Mutual Life—The United States Life, of New York—The Equitable, of New York—Assignment of the United States Life and Annuity—Its Position—New Plans of the American Life—New Agencies—Before the Battle of Gettysburg—Experience in Military Risks—Tax Decision of the Internal Revenue Office as to Life Premiums—The Penn Mutual and the American Life in 1863—Formula of the Contribution Dividend Plan—As between Half Note and All Cash Premiums—Life Insurance Expansion—The Manhattan Life and Incontestable Policy—Stipulations of the North America Life, of New York—Bonus No. 5, of the Girard Life—Mortality Rate of the Federal Army, 1861-65—Organization of the Provident Life and Trust; Mortality of Members of the Society of Friends—Unfavorable Estimate of the Combined Experience Table—Comparative Premiums of Philadelphia Offices in 1865—A New York Departmental Valuation Basis—Other-State Valuation Practices—Increase on Increase of Life Insurance—The Solicitor promises too much—Assignment of Policies by an Insolvent Party—The Illusion of the Widows and Orphans' Benefit—The Visions of the Massachusetts Department—Other-State Companies crowding into the City—The Universal, of New York; Proposed Invalid Insurance—Health and Longevity—Surrender Value Propositions and Practices—The Temporary Insurance of the Massachusetts Surrender Value—Loan of One-Half of Premium—Commissioner Wright sees an "Ample Security" and prognosticates—A Recurrence of Asiatic Cholera—The North America Life, of New York—State Registered Policies—Conveyance of Philadelphia Ground Rents to Other-State Corporation—The American Life in 1866—Comparative Moral Hazard of Proffered and Solicited Life Risks—Revoked Agency and Collection of Renewal Premiums—A Discontinuance of Half-Note Premiums—The Hand-in-Hand Mutual Life—State Premium Tax paid under Protest—Over-estimate of Insurance Value of Annual Premium—Wife or Children's Benefit free from All Claims of Insured's Creditors—A Death Lottery—Organization of Chamber of Life Insurance of the United States; Proposed National Life Insurance Supervision—The National Life Insurance Company of the United States—Formula of Return Premium Plan—The United Security Life and Trust Company—Homœopathic Life Insurance and Homœopathic Mortality—The Provident and the Penn authorized to do Business in New York—The American Experience Table becomes the New York Standard—Comparative Tabular Survivorships—Policy Data of Three Philadelphia Companies—A Company Comparison—Joint-Life Insurance Practice and Calculation—Proposed Substitution of Retaliatory Taxation for Three Per Cent. Premium Tax—Company liquidating and declaring Policies forfeited—Premium unpaid and Death intervenes—The Centenary of the Corporation for the Relief of the Widows and Children of Clergymen in the Communion of the Protestant Episcopal Church—The Corporation authorizes Return Premiums and Paid-up Policies—What had been attained in a Century—Philadelphia Agencies in 1870—Philadelphia Mortality Rates, 1870—Special Philadelphia Mortality Tabulations. (1861-1870.)*



THE Confederate batteries at Charleston harbor opened fire upon Fort Sumter April 12, 1861; next day the fort surrendered, and immediately President Lincoln issued a proclamation calling upon the non-seceding States for 75,000 militia for three months' service. As the life policy did not include the risk of military or naval service, such risk was not within the practice or observation of the life insurers, but the public exigency induced action on the part of the companies. There was some division of opinion as to the practicability of insuring such hazard, but as the companies shared in the common weal or woe, business reasons of managers tended to harmonize with public duty. Slight knowledge, however, obtained as to the probabilities involved. There was plenty of military carnage as rhetorical description, and little of informing data. A regiment in the course of a campaign would be largely diminished by sickness, by the wounded in action, by desertion, by the missing under varied circumstances, and by the discharges, as well as by the killed in action, the mortally wounded, and the dying from neglect. While battle casualties (fatal) in a year were manifestly in large proportion to the fatal casualties of civil life, yet it was vaguely apprehended that the soldier, like the civilian, died more by sickness than by casualty; and there was conjecture as to whether fatal malady was twice, thrice, or four times greater in an army in the field than in civil life, for males, at the army ages. While officers might die, or be mortally wounded, in battle in greater ratio than privates, the latter would perish by sickness in the greater degree; but any discrimination in this respect, and any cognizance as to whether the death rates respectively of cavalry, artillery and infantry constituted a rising scale, were all comprehended or disregarded in a simple general estimate.

The Penn Mutual appropriated \$5,000 to the defence of the city, and \$5,000 more to a general fund for the relief of families of volunteers, and at the first uprising of the free or non-slaveholding States recommended that the several life companies assume the death risk of those entering the service of the government, at a premium to be agreed upon. Any available graduation was out of the question. (A scrip dividend of 25 per cent. was declared by the Penn Mutual upon premiums received in 1860.)

First to be considered by the companies was the protection of those already insured—that is, the conditions under which permits could be granted to subsisting policyholders entering the army or navy. Following a provisional arrangement agreed upon at a meeting of sixteen life companies held in New York, April 19, the American Life adopted, on the 24th, the following rules and annual charges:—

CLASS NO. 1.—Permits for twelve months, covering the risk arising from entering into the Military or Naval Service of the United States, will be granted upon payment of an extra premium of Five per cent. [upon sum insured]—the said risk to be confined to a locality North of 34° of North latitude, and an additional extra premium of Five per cent. upon all risks incurred for location South of that point.

CLASS NO. 2.—Parties entering such service without a permit, forfeit their policies; but should they be killed in battle during said service, the Company will return to their families all premiums received upon their respective policies.

At the end of the war, or upon honorable discharge from the service, each party holding a forfeited policy as above, may present himself for medical examination, and his said policy may be renewed or not, at the option of the Company, and at the old rate of premium.

If the Company refuse to renew, one-half of the premiums received upon the policy so refused will be returned.

CLASS NO. 3.—Home Guard, no extra charge, but with the understanding that if killed in Home Service, the Company will not pay the amount insured, but will return all premiums received.

Should they leave their place of home, either ordered or voluntarily, for offensive or defensive operations, then to come in as Classes Nos. 1 and 2.

This drew the climatic line more than two degrees of latitude south of the policy rule.

The war risk was declined by the Girard Life. No action was taken in the matter by the United States Life and Annuity. The business of the United States, largely in the South, was disrupted by the troubles, and its saving fund department was embarrassed. Such was the condition of the company that no statement of its affairs was made for date of January 1, 1861. Its last annual statement was as follows:—

*Assets, January 1, 1860.*

Cash on hand and in bank, . . . . .	\$44,262 40
" in bank at New Orleans, . . . . .	11,576 42
Loans on call, or secured by ample collaterals, . . . . .	64,517 92
	<hr/>
	\$120,356 74
Bills receivable, . . . . .	101,876 21
Real estate, bonds and mortgages, . . . . .	106,946 83
Bank, railroad, canal, and other stocks and securities, . . . . .	267,171 46
Loaned on policies, deferred premiums, and balances due from agents, . . . . .	55,846 27
Present value of annual premiums, . . . . .	1,007,570 80
	<hr/>
	\$1,719,768 31

For year ended November 30, 1861, five agencies of other-State life offices paid into the State treasury taxes on \$95,666 of premium (not including premium notes), or 23 per cent. of the total tax on premiums received by the State. With the recently entered Manhattan Life, of New York—E. V. Machette, agent—there were nine non-State life companies (not including the International, of London,)\* authorized to do business in Philadelphia, apart

\* This company had shown in its experience that 25 per cent. loading of true or net premium was not sufficient to meet its expenses. For date of December 1, 1861, a net valuation of the technical liability was made by the New York insurance department (and the asset relation thereto given) of the company's United States branch, deduction from gross premium receivable entering the account being 20 per cent. The result was as follows:—

Present value of 1,664 policies, insuring \$4,498,843.00, . . . . .	\$1,937,417 28
Present value of additions to the same, . . . . .	23,842 65
	<hr/>
	\$1,961,259 93
Present value of \$140,874.75 of annual premiums, . . . . .	\$1,843,924 29
Deduct 20 per cent., . . . . .	368,784 85
	<hr/>
	1,475,139 44
Net present value of outstanding insurance, . . . . .	\$486,120 49
"Realized" assets of the company in the United States, . . . . .	367,869 10
	<hr/>
Computed deficiency, . . . . .	\$118,251 39

This was upon the assumption "that all the policies returned November 30, 1860, remained in force, and that no new policies have been issued during the year."

Between December 1, 1860, however, and the beginning of March following, 424 policies in the United States lapsed, and therewith \$1,383,833 of insurance ceased to be in force, whereupon Superintendent

from the English fire and life offices. Approximately, the agencies were carrying four million dollars of insurance on Philadelphia lives—about one-third of the total of such insurance. Of the agencies, the New England Mutual had announced issue of war permits at 2 per cent. premium, against the 5 per cent. regulation of others. The Germania, of New York, set forth in a circular, "that very serious reasons have forced the conclusion upon them that they cannot in this instance follow with safety the dictates of generous impulses. The value of such war risks cannot be even approximately determined, and nobody can tell what sacrifice of life and health will be caused by war." The Mutual Life, of New York, adopted the 5 and 10 per cent. extra rates of the New York convention, without requiring

Barnes remarked: "If all these policies should be finally cancelled, the apparent deficiency of \$118,251.39 stated above would be greatly lessened, if not entirely neutralized." As by statute provided, the Massachusetts insurance department had made up an exhibit for November 1, 1858, (with value of policies at net premium,) of the company itself. The showing was as follows:—

Present value of all outstanding obligations, or net cost of reinsurance, . . . . .	\$1,683,256
Capital actually paid in, August 31, 1855, . . . . .	255,382
Losses and other debts, . . . . .	8,602
Total liabilities, . . . . .	\$1,947,240
Total assets, November 1, 1858, . . . . .	871,617
Deficiency, . . . . .	\$1,075,623

As a question of "reinsurance," *per se*, gross premiums should have been valued; then the difference between present value of insurances and present value of premiums receivable would itself have been contingent as to the future. Valuation by net premium disclosing insufficient assets according to its requirement, would show that *so far* the premium had been deficient, but then as to the future, say that death assumption would be realized, there might be excess of interest receipt in conjunction with expenses less than loading. Experience would make in the future another net premium and another loading than those formulated. As a question of dividend capacity the net valuation was, however, an actual test. In response to the computed deficiency, W. S. B. Woolhouse made a counter-computation upon the data of November 30, 1858, which resulted in this balance-sheet:—

<i>Assets.</i>		<i>£. s. d.</i>		<i>£. s. d.</i>	
Present value of premiums [ <i>£</i> 68,848 1 <i>s.</i> 5 <i>d.</i> ] receivable on assurances					
[ <i>£</i> 2,174.475], . . . . .	910,297	10	2		
Present value of premiums on deferred and survivorship annuities					
[ <i>£</i> 2,815 4 <i>s.</i> 7 <i>d.</i> , with <i>£</i> 658 7 <i>s.</i> 3 <i>d.</i> annual premiums], . . . . .	3,227	10	11		
Present value of premiums [ <i>£</i> 22 0 <i>s.</i> 4 <i>d.</i> ] receivable on endowments					
[ <i>£</i> 811 1 <i>s.</i> 0 <i>d.</i> ], . . . . .	124	18	9		
Investments, . . . . .	192,397	13	10		
				1,106,047	13 8
<i>Liabilities.</i>		<i>£. s. d.</i>		<i>£. s. d.</i>	
Present value of assurances, . . . . .	917,836	12	2		
Present value of deferred and survivorship annuities, . . . . .	18,145	13	7		
Present value of endowments, . . . . .	651	10	0		
Present value of immediate annuities, [ <i>£</i> 6,202 12 <i>s.</i> 2 <i>d.</i> ], . . . . .	45,295	17	5		
Paid-up capital, . . . . .	79,608	0	0		
Bonus on shares, . . . . .	320	11	9		
				1,061,858	4 11
Balance in favor of the society, . . . . .				44,189	8 9

This showed, in respect to "assurances," *£*7,539 2*s.* deficiency at present value of future premiums, without allowing one shilling for expenses in carrying the risks to their termination. The margin "in favor of the society" as made up showed an approach to bankruptcy. Mr. Woolhouse said, "the calculations of the commissioners [Massachusetts] being based on a hypothesis of fictitious premiums having no relation whatever to the society's tables, or the premiums actually receivable, are necessarily fallacious, and may be regarded purely as a fabrication." All life insurance is, however, at its foundation, an hypothesis. F. G. P. Neison endorsed Actuary Woolhouse's figuring, and denounced the nature of the "defective data and statements" adduced by the commissioners, and condemned the Combined Experience table used in the Massachusetts valuation "as a mere hypothetical and fictitious table, not based, as all reliable tables are, upon observations on *lives*, but deduced from records as to *policies* only, in which the number of lives at risk was entirely unknown to any one engaged in its construction." "Reconstructing the balance-sheet on page 5 [commissioner's report] with the corrected materials supplied in table A relative to the first line of results in the table at top of page 4 [reserve at net value], and leaving all other figures in the latter table undisturbed," Mr. Neison made a surplus above stock capital in favor of the society of *£*54,320 1*s.* He then analyzed Commissioner Elizur Wright's arithmetic in this manner:—



immediate payment of such permit rates—the amount so charged could be adjusted in the policies of those surviving and continuing in the company at the date of the next quinquennial dividend, in 1863; policies becoming claims, the extra premiums were to be deducted at payment of the policies. Other companies stipulated for one-fourth cash premium, and notes for the balance at three, six, and twelve months. By its terms, the life policy was forfeited in event of death occasioned by or through any known violation of any law of the United States. To insured persons about to engage in the military service of the seceding States, the New England Mutual offered surrender value of policy in sixty days after application therefor, “where the parties interested can make a legal surrender so as to exonerate the company.”

“They [the commissioners] have, in their calculations, deducted from the present value of the future premiums payable somewhere about 32 or 33 per cent. . . . The full loading of 33 per cent. on the original or mathematical premium, as they term it, will only form a margin to be deducted from the gross premium of 24.8 per cent. . . . It is certainly to be lamented that men evidently unacquainted with the mere elementary principles, should be permitted to preside over those interests intrusted to the Massachusetts commission. . . . They misapply the simplest laws of numbers.” Mr. Neison’s conclusion was, that in the invested funds of £192,397.69 there was a surplus of paid-up capital and earning of £130,598 16s.

Messrs. Habicht & Holbrooke, the American agents, sought and secured the opinion of Benjamin Peirce, Perkins professor of astronomy and mathematics in Harvard college. After giving due recognition and honor to the Great Names of Woolhouse and Neison, Prof. Peirce, “without impugning the honesty” of the conclusion reached by the Massachusetts department, regarded it “as opposed to established (*sic*) experience and the sound deductions of science.” The Harvard mathematician employed Neison’s table of mortality, and, with 4 per cent. interest, coincided with Neison, thus:—

Peirce:	Present worth of the sums assured, . . . . .	£899,274.41
	Present worth of the annual premiums, . . . . .	912,705.76
Neison:	Present worth of the sums assured, . . . . .	£899,237.84
	Present worth of the annual premiums, . . . . .	912,704.39

*Inter alia*, Prof. Peirce said: “The commissioners have assumed the present value of the future expenses of the society as being nearly a million dollars, and have put the whole burden of this expense upon the present policies. . . . They must know that any good financier would gladly undertake the whole expense for one-fourth of this sum, which is, however, less than the amount actually reserved by your society for this purpose.”

While it was doubtless true that the International could have reinsured its obligations for but a portion of its assets, it was equally true that if any combination of business men had purchased the premiums receivable for an immediate payment of *one-half* of the £912,705.76, with all the obligations, as they actually should accrue, to be discharged by a responsible company, and not by themselves, they would have lost money by the transaction.

Professional American actuaries endorsed the position taken by the Massachusetts commissioners, but even the judicious Nicholas G. DeGroot said: “The essential difference between valuations in gross and in net is liable to be overlooked by calculators and mathematicians in general, because the distinction is not so much an *arithmetical* as a *commercial* one.” To the contrary, the distinction was rather arithmetical than commercial; the valuation being simply the execution of numerical rules not involving the increments and decrements of varied occurrences.

Both sides were engaged in the game, to use an appropriate if rather vulgar aphorism, of “counting chickens before they are hatched.” The English computers, with Prof. Peirce, counted twelve chickens to the dozen eggs, with each successive prospective fowl a decreasing probability, and the twelfth one nearly an impossibility; the American computers did not count twelve more or less remotely possible chickens as twelve actual chickens. On the side of the valuers in gross, actuarial skill and mathematical scholarship immensely preponderated, as compared with such qualifications as possessed by the valuers in net, but the facts and the best, if not the absolutely right, logic were on the side of the American actuaries. Valuation, whether gross or net, could not present the actual prospective position of a company financially, as it set up one condition as to the future to control and put aside all other conditions; but net valuation as a rule of accumulation was a safe guide through involving doubt and perplexing contingency. Whether net valuation created too great a liability for a commercial account, was rather a theoretical question than a practical fact. It afforded the only practicable rule for a life office to live up to, if it would live with certainty up to and through the culminations of the future, and in any event it was infinitely better than that pernicious method whose chief office was to absolve from present liability.

At the close of 1862 the American branch of the International had but \$2,715,473.81 of insurance in force, with \$385,109.23 of assets. October 24, of that year, the court of directors of the International made a call on the shareholders for 30s. per share more of cash capital (about £31,000). The Philadelphia agency was discontinued in 1863. In New York the American agency was continued, with risks decreasing, until the amalgamation of the International with the Hercules, of London, which was the transfer of an insolvent society to another both fraudulent and insolvent.

In event of compulsory service in the Confederate armies, application for surrender was to be made within forty days after entering actual service. Policy could be suspended when application for surrender was not made, or was impracticable; and with further premium unpaid, surrender value was to be paid upon the life dropping during the suspension. The life surviving the existing troubles, the company would renew the policy upon reasonable terms, or pay the value for surrender at date of suspension. By Carlisle table, the death rates for ages from 18 to 45 years, inclusive, ranged from 0.70 per cent. to 1.48 per cent.; by Combined Experience, from 0.71 to 1.22 per cent. Considering the whole extra premium as but provision for excess of mortality, there was an estimation of mortality in the army, in the territory north of 34° north latitude, three or six times greater than tabular anticipation, according as the permit was at 2 or 5 per cent.; but there was a general hesitancy as to the issue of new policies on war risks. Not soliciting war risks, and granting permits at 2 per cent., the New England Mutual charged 5 per cent. for new policies on war risks. The New York Life, however, gave notice that all desiring to insure their lives before joining regiments, could do so for the regular premium and extra premium from 2 to 5 per cent. Strictly, the extra hazard was, with some companies, not a specific term risk, as with them the extra premiums were to be continued after service until satisfactory evidence of good health should be given; and so the risk as to impaired vitality affecting the future was stipulated for. The Mutual Benefit, with 5 and 10 per cent. permits, gave the insured the option to suspend policy during service, with payment of present net value in case of death in the period; policies to be renewable on discharge from service, if health were satisfactory.

With increased ratio of lapsing policies, the year 1861 closed with a somewhat less amount of insurance in force in the general body of life offices than at the beginning of it, but with increased assets. Still, some offices increased in the year the insurance in force. Commercial bankruptcies accumulating at the beginning of the conflict, were, however, declining; prices at the stock exchanges were recovering, and the Federal government was developing the measures of a definite financial system. February 25, President Lincoln approved An Act to authorize the Issue of United States Notes, and for the Redemption and Funding thereof, and for Funding the Floating Debt of the United States, creating \$150,000,000 of legal tender, personal and national, excepting for duties on imports. At the same time, United States 6s, 1881 (loan of 1861), were selling in the market at 92; 5s, 1874, at 85; treasury 7 $\frac{3}{10}$  per cent. notes at 99. The 7 $\frac{3}{10}$  per cent. interest on the treasury notes was payable in gold, and the premium on gold had fluctuated in February from 2@4 $\frac{3}{8}$  per cent.—at the lower figure when the month closed.

While the life insurance economy was to have part in the economic results of the war, the general uncertainty of the public situation afforded opportunity to direct the minds of the people to the availability of life insurance as a security. The State and the United States loans, with other bonds and stocks held by the acknowledged life offices, were, in mean market price, a small percentage below par.



Policy stamp duties as part of a Federal excise tax, began to be imposed, and stamps were affixed to policies on and after October 1, 1862; such duties being 25 cents, 50 cents, and \$1.00 for life policies. The commissioner of Internal Revenue decided that receipts for periodical premiums were not subject to such duty. But with policy expired by limitation or non-fulfilment, renewal or revival of such was subject to the tax. Permits or agreements by which the terms of the policy were waived or changed in any respect, were subject to such stamp as was imposed upon "agreements."

Opinions as to the war rate began to diverge still more, rather than harmonize, and the New York Life was withdrawing from its early liberal concessions. The Sanitary Commission reported 10.04 per cent. of the army disabled by sickness, but the Mutual Benefit reduced the additional charge of 5 per cent. per annum south of 34° to 2 per cent. additional for the period June 1 to November 1.

Premium receipts of the Penn Mutual Life contrasted as follows for 1862 and 1860:—

	1860.	1862.
Term of life, . . . . .	\$162,557 33	\$137,371 38
Short term, . . . . .	3,008 27	758 78
Extra risks, . . . . .	1,937 00	—
War and extra risks, . . . . .	—	7,481 07

A scrip dividend of 40 per cent. was declared by the Penn Mutual upon the account for 1862, against 35 per cent. for the previous year. The scrip dividends of 1850–51–52 were receivable on and after March 1, 1862, in payment of cash premiums, or to be credited on premium notes or loans on policies. On and after March 1, 1863, the scrip of 1853–54–55–56 was to be so applied.

The additions to the Philadelphia life agency list in 1862 were the agency of the Equitable, of New York—A. B. Keith, agent, and that of the United States Life, of New York, organized in 1850—O. Bardenwerper, agent. The Equitable was a new office, organized July 25, 1859, which wrote \$2,853,450 of insurance in 1862. It had at the close of 1862 twenty agents in the State of New York, and three hundred and fifty in other States, against the fifty-nine in New York and the ninety-four in other States of The Mutual Life. A period of more energetic and far-reaching life insurance work was dawning as battles raged and financial problems perplexed, and the life insurance characteristics of the period were fully represented by the Equitable. The premium tables of the Equitable were based upon Combined Experience mortality, at 4 per cent. interest. Net rates for whole life were loaded 35 per cent. at age 35, but with variations for different ages. First valuation, net, of the company's policies by its actuary, G. W. Phillips, was made in 1862, at 5 per cent.\*

\* Though the American Mutual Life, of New Haven, had ceased to have an agency in Philadelphia, an examination into its affairs by the New York and Massachusetts departments in 1862 justified the criticisms made earlier in the city as to its rates of premium. Its whole-life insurance outstanding amounted, January 1, 1862, to \$2,989,259; term and endowment, \$686,450. Valuing whole-life policies by Carlisle 4 per cent., and term and endowment policies by Carlisle 6 per cent., net, giving net present policy value of \$529,984.41, there was, according to the New York department, an asset deficiency of \$246,919.47. According to the Massachusetts department valuation, the deficiency was \$134,935.06. This difference was explained by Superintendent Barnes as follows: "The calculations of the net present value of the policies by Wright's Valuation tables concede to the company, during the term of the expected life of its members, the payment of the ordinary rate of premium, when in fact the company can collect only from 75 to 82 per cent. of the usual rates." A State standard was thus set up, irrespective and independent of the constituents of the premiums charged by a life company.



The United States Life Insurance, Annuity and Trust Company, of Philadelphia, made an assignment in November, 1862, (George W. Wollaston, assignee,) and up to within a day or two of the assignment it continued to receive life premiums and saving fund deposits. Sale by the sheriff of the company's building followed. This failure disappointed the favorable anticipations respecting the United States which had been induced by the skill and enterprise it evinced in its early career. The speculative element in the management had been augmented by the saving fund business. (High interest-paying, speculative savings funds of the city were collapsing at the same time.) Total stocks, credits, etc., mainly worthless, were shown at nominal value of \$140,053.66, as the assets of both the life insurance and the saving fund department—the liabilities of the latter being reported at about \$195,000, and the liabilities of the former department not conjectured; but with respect to this department life policyholders began an ineffectual examination. A committee of the State legislature was subsequently appointed, on petition of a depositor in the saving fund, to investigate the circumstances of the bankruptcy. Testimony taken by the legislative committee (house of representatives) produced no definite exhibit. James R. Hunter, secretary and treasurer, testified that the liabilities of the "company" amounted to about \$150,000, and that three or four hundred dollars in cash, and bills receivable, stocks and mortgages, amounting to about \$145,000, had been turned over to the assignee. The assignee testified that the assets consisted largely of protested notes and stocks of no value. Among the debts due to the company were balances of agents in the Confederate States, amounting to between \$15,000 and \$16,000. D. W. Boileau testified to the liabilities of the "company" as being about \$189,210, which did not include any matured value of policies not yet lapsed. Thomas T. Lea, advertised as a director at the time of the assignment, had attended no meeting of the board after July, 1860. At the first meeting he attended, he expressed his dissent from the high rate of interest paid to depositors, as forcing loans of a risky character. The committee, in its report, referred to unpaid notes of directors, loans thereon having been made without security, and named "dabbling in stocks" as appearing to have been a "mania with the executive officers," who had the entire control and management.

The gradual decline of this office, protracted through three years, averted from the general life interest the shock of a sudden collapse.

The American Life issuing a greater number of policies in 1862 than it had done in any previous year, now met the rising demand for a stipulation securing the results of premium payments at every stage of payment, by introducing a method of *pro rata* paid-up insurance under the title Non-Forfeiture Plan—all premiums to be paid in five, seven, or ten years, for policies payable in full at death. Ten-year non-forfeiture rates were as follows, at quinquennial ages, per \$1,000 insurance:—

	Premium.
Age 20, . . . . .	\$30.50
25, . . . . .	34.80
30, . . . . .	38.40
35, . . . . .	43.00
40, . . . . .	47.00
45, . . . . .	53.50
50, . . . . .	60.30

The insurance being, for example, for \$1,000, a paid-up policy would be issued on receipt of \$400 of premiums at five-year rates, \$258.70 at seven-year rates, and \$200 at ten-year rates. Subject to this condition, four annual premiums would secure a paid-up policy for four-fifths, four-sevenths, or four-tenths of originally insured sum, according to the period of full premium payment. Six annual premiums would secure six-sevenths of the seven-year payment policy, etc.

Payment of annuity to the beneficiary of the insured, instead of policy sum, was another of the proffers of the American Life, which company was at this period noted for its expedients to popularize life insurance and inculcate the life insurance sentiment.

Under the general agency of Orrin Rogers, beginning in 1863, the Girard Life tried for a brief while agency work, appointing a few local agents in other counties of Pennsylvania, but the Girard was essentially a local office. March 25, the auditor-general of the State issued a Philadelphia county license to the Massachusetts Life, of Springfield—George F. Willis, agent. A few weeks later the Philadelphia agency of the *Ætna* Life, of Hartford, was placed in charge of Chauncey H. Brush. J. B. Carr succeeded E. V. Machette in the agency of the Manhattan Life. The Washington Life, of New York, duly authorized in 1863, opened an office in Philadelphia, with Chambers & Register as its representatives. F. Ratchford Starr was appointed general agent of The Mutual Life this year.

With the advance of the Confederate army across the southern border of the State to meet the issue at Gettysburg, there was a partial cessation of business in the city in the last week in June and first week in July, and organization for military defence. The life offices were one of the forces sustaining the government, being, as capitalists, large takers of Federal bonds, and, as insurers, a financial safeguard of the home while the head and support of the family was in the field. At the agency of The Mutual Life, of New York, and at other agencies, war permits for service in the State were granted, free from any extra charge. As to the general war risk, whatever might have been the health of the army, the mortality experienced approximated closely to the first crude anticipation. By the report of the actuary of the United States Sanitary Commission, deaths in battle, or resulting from wounds occurring therein, were 0.9 per cent. per annum, deaths from sickness 4.4 per cent. per annum; total army mortality 5.3 per cent. per annum. Battle deaths alone were, therefore, about equal in ratio to the total mortality from all causes, at army ages, in civil life. With regard to particular insurance experiences, of the 147 deaths in The Mutual Life, of New York, in 1863, nearly 17 per cent. were of persons in military service—9 died in battle or from battle wounds, 14 from diseases contracted in the army. Extra war premiums received in 1863 by The Mutual Life amounted to but \$36,274.91. By December 21, 1863, the New England Mutual had 490 deaths occurring from date of organization. Of these deaths, 37 were accidental, taking place in a period of twenty years, 31 were battle deaths, occurring in a period of about two and a half years.



The Internal Revenue office decided, as part of the war-tax programme, that premiums paid for life insurance should not be allowed in deduction of tax-paying income; but incomes were increasing under the trade stimulus of governmental expenditures and advancing prices. There was an inflation in so far as the onward movement would be attended with inevitable reaction, but in the impetus and momentum of the time life insurance had part. Income of the American Life and Trust in 1863 was \$203,365.61, of the Penn Mutual Life \$252,049.95; assets of the former, December 31, 1863, \$818,440.54, of the latter \$1,221,289.71.

February 4, 1864, the American Life declared a dividend of 50 per cent.\* "on all premiums received on mutual policies during the year ending December 31, 1863, and in force at that date; the above amount to be credited to said policies"; and it was also ordered that "the dividend of 1860, on policies issued during that year, be paid as the annual premiums on said policies are received," [renewed.]

Early in 1864 the agent of the New England Mutual, criticising in one of the public prints comparisons made as to the results of all-cash and part-note premiums, said: "The pamphlet of the New England Mutual, pages 13 to 17,

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\* Division or apportionment of presumed excess accumulations, to policies participating in the surplus above cost and liability as ascertained, was now a subject to be placed upon a better technical basis than had yet been attained. Different degrees of premium represented different degrees of liability, and to make a like *rate* of dividend upon different *amounts* of premium for the same *amount* of insurance, or nearly the same insurance sum, involved a fallacy. If insurance of \$1,000 for whole life had, at age 21, a premium of \$18.20, and at age 44 a premium of \$36.30, a 40 per cent. dividend, for example, awarding \$7.28 to the former and \$14.52 to the latter was an inequity even as between two such policies, and the matter was further complicated by ten-year payments, endowments, etc. The dividend-accruing portions of the different premiums were not proportioned as their gross amounts. An excess accrument by The Mutual Life, of New York, providing for the quinquennium 1858-62 a divisible surplus of \$3,000,000, enforced a more consistent method than the crude uniform premium percentage. The Mutual Life (Sheppard Homans, actuary,) divided its surplus by settling each provisional-premium account as follows:—

"CREDIT each policyholder, *first*, with the amount actually reserved at the last distribution as the then present value or reinsurance of his policy, and, *second*, with the effective (or *full*, as the case may be,) premiums paid since that time, both sums being improved at the current rate of interest to the date of the present distribution: and CHARGE him *first*, with the actual [death] cost of the risk to which the company has been exposed [had experienced] *during the interval*, determined by means of a table representing the rates of mortality and interest actually experienced, and, *second*, with the amount now reserved as the present value of his policy. The difference between the sum of his credits and the sum of his debits will determine his *Contribution* to surplus, or overpayment during the dividend period."

This eliminated *all* the loading from the debits; lapses of policies, sales of securities, etc., discharging the expenses. The aggregate mortality experienced was about 70 per cent. of the assumed—the proportion varying with different ages—the net interest earning  $6\frac{1}{2}$  per cent. against 4 per cent. assumed. Using the notation employed, the equational expression for annual contribution was as follows for any initial age ( $x$ ), per \$1 of insurance in the  $n$ th year:—

$$R_{x+n}(1+r') + P_x(1+r') - \frac{d'x+n}{l'x+n}(1 - R_{x+n+1}) - R_{x+n+1} = \mathcal{K}_{x+n}$$

These symbols denoted:—

1.  $R_{x+n}$ : The reserve (net value of policy for \$1 in force in the  $n$ th year from age at issue  $x$ ) at beginning of the year.
2.  $1+r'$ : Amount of \$1 at end of one year at the rate of interest realized.
3.  $P_x$ : Gross annual premium.
4.  $d'x+n$ : Number of insured dying in the  $n$ th year.
5.  $l'x+n$ : Number of insured living and dying in the  $n$ th year.
6.  $R_{x+n+1}$ : Reserve at end of the  $n$ th year.
7.  $\mathcal{K}_{x+n}$ : (Greek Kappa— $k$  or  $c$ ) Contribution to surplus.

In event of the policyholder being charged with a portion of the loading for expenses, represented by  $e$ , the second term of the equation became the multiplication  $(P_x - e)(1+r')$ .

Whatever might be the defects of the contribution formula for distributing surplus when searched out to its last analysis, it apportioned the dividend to each policy upon the basis of a net earning by such policy.



condemns the system of taking a note on personal credit, but approves and practices the plan of taking a note for one-half of the premium, the policy being the security." This was an indirect way of asserting the validity of maximum premium-note assets to be equality with the net value of the policies, plus such surplus as might be credited to the related policies. To balance the company's liability to the policyholder, his premium note was a good security, but no further, though the best of interest producing assets. To this point the contest between all-cash and part-note premium had reached on the asset side, leaving the debate to be carried on in the field by contrasting the cash or cash value of the dividend returns of the all-cash company with the contingent premium rebate of the part-note company.

Life insurance was augmenting throughout the country by the starting of new companies, by the multiplying of agencies, and, to some slight extent, by large amounts written on single lives; all such large sums were, however, distributed in each case among different offices, so avoiding the tendency, in respect to death claims, of particular policies insuring amounts largely above the mean amount per policy to advance the loss ratio in any one company above the personal death ratio. Lancaster & Gaskill placed, at this period, \$150,000 on a single life. This was presumed to be the largest sum contingent upon the existence of one person yet written in the country. There were, however, agents elsewhere contesting the preëminence in this respect. This firm, as agents of the New York Life, were calling particular attention to a policy of this company offering non-forfeiture after ten annual payments. Accumulated assets claimed by the New York Life, January 1, 1864, \$2,653,537.92; amount credited by the New York insurance department \$2,705,666.74, net surplus thereon \$284,627.87. This company was declaring annual percentage dividends—33 per cent. of premiums for 1863. The Knickerbocker Life, now having seventy-one agents in different States and \$3,905,813 of insurance in force, reëntered Philadelphia in 1864—G. Paul, agent. License was also granted to the Home Life, of New York—B. K. Esler, agent. With active competition, policy diversification enhanced in the search for wider popular approval, and the Manhattan Life taking a stand in behalf of the least uncertainty to the beneficiary, announced policies incontestable after five years, "for or on account of error, omissions and misstatements in the application, except as to age." In so far as such rule would apply, warranty by the insured was eliminated from the contract, and representation shorn of much of its otherwise qualified materiality. The recent North America Life Insurance Company of New York, organized in 1862, opened a branch office at 434 Walnut street—Nelson F. Evans, general agent—and stipulated to remove all restrictions in its policies as to travel and employment after the lapse of seven years, grant thirty days' grace in payment of renewal premium, and increased period of grace, "if needed, after six premiums are paid," with  $33\frac{1}{3}$  per cent. credit without notes, and all "life and endowment policies non-forfeiting." Leading in the life-agency operations, The Mutual Life, of New York, accounted to the auditor general for year ended November 30, 1864,

for \$110,746 of premiums received. It had taken out a license for five years under act of May 1, 1861, paying in advance in 1862 for each of the licensed five years on \$33,510 of annual premiums. So paying tax in 1864 on \$77,236 of premium, in addition to the annual estimate for the five years. The insurances in force in this agency were between three and four million dollars.

Quinquennial bonus No. 5 was declared December 31 by the Girard Life, which made addition to sums insured on whole-life policies in force issued prior to January 1, 1862. The decreasing percentages were  $10\frac{1}{2}$  per cent. addition to policies issued in 1857, 9 per cent. to policies issued in 1858,  $7\frac{1}{2}$  per cent. to policies issued in 1859, and on all policies which participated in bonus No. 4, declared in 1859, etc. "In addition to which, on all the above-named policies on which future premiums shall be paid, and on all other life policies after they have stood three years, and shall become claims within the next five years, there shall be paid a further bonus in the same ratio as that now declared." A semi-annual stock dividend of 4 per cent. was declared by the Girard, and a large extra dividend also on the stock capital.

The war was ending as 1865 advanced; life insurance had more than doubled in the interval of arms, endowments had become about 7 per cent. of the amount insured, and by the conflict the total mortality of the companies was affected by a very small decimal of increase.\*

Philadelphia did not participate in the undue increase of life companies which the excitements of the time were engendering. Results of experimenting and speculating in such direction were a familiar local experience. In the State of New York five life offices had been started in 1864, and another was getting ready to start. The problem in respect to these was, which one or two of the number would survive, and what would be the average life of such experiments. In Philadelphia no life office had been organized in fifteen years, and four or five of earlier organization which had been attempted had ended, including one not altogether disqualified for permanent establishment. With thoughtfulness as to the probabilities and responsibilities involved, yet with due appreciation of all the opportunities for success existing, another was added to the city's institutions, which was evolved, so to speak, out of the half a century of life insurance which Philadelphia had undergone. The oldest life and trust companies of the country had found their surer financial resource in their trust business, and, with augmenting wealth, were slowly discontinuing the life branch. They made life insurance a secure practice before the life insurance era had come; but that era had now begun in the fulness of a great promise and the uncertainties of its jeopardies.

An act approved March 22, 1865, incorporated the Provident Life and Trust Company of Philadelphia. In this special life insurance and trust charter were included eleven sections of the general act To provide for the

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\* It is represented that there were nearly 2,750,000 enlistments and reenlistments in the Federal army from the beginning of the war in 1861 to the end in 1865; deaths in the service, officers and privates, 304,000, or 11.06 per cent. of the enlistments for the four years. Assuming the average time of service per man as two years and six months, there would have been 1,718,750 as serving four years, experiencing 76,000 annual deaths, or 4.42 per cent. Taking the average time of service as two years per man, the annual death rate would be 5.53 per cent.

Another account gives enlistments 2,500,000, deaths 359,146, including 29,498 dying while prisoners of war.



Incorporation of Insurance Companies, approved April 2, 1856. (Sections 1, 2, 3, 5, 6, 7, 9, 10, 11, 16, 17.) Without any denominational regulation, the Provident, of Philadelphia, founded by Friends, had as its prototype, in respect to life risks, the Friends' Provident Institution, a company organized in 1832,\* at Bradford, Yorkshire, England. The Provident was designed to promote life insurance among Friends in the United States, without the risk being limited to such community. The original stock capital prescribed by the charter, \$150,000, was paid in at the beginning. By the by-laws, two committees were constituted—one called the Committee of Finance and Accounts, the other the Committee on Trusts and Audit; the former to supervise and control the investments of the company, except the investments in ground rents and mortgages; the latter to examine the assets at least once in three months, and have the supervision and control of investments in mortgages and ground rents. The president and the actuary were the insurance and the annuity contracting officials—maximum policy sum \$20,000—and the president was joined with the committee of finance in the purchase and sale of securities. The duties of the actuary (who paid out the current expenses) were elaborate, and were thus specifically defined:—

The actuary of this company shall be responsible for all the moneys, funds, and valuables of the company, and shall give bond with security, to be approved by the board, in such sum as it may from time to time determine, conditioned for the faithful and honest discharge of his duties as such actuary, and that he will faithfully apply and account for all such moneys, funds and valuables, and deliver the same on proper demand to the order of the board of directors of this company, or to the person or persons authorized to receive them. It shall be the duty of the actuary to attend at the company's office every day during the hours of business. He shall act as secretary of the board of directors. He shall keep minutes of their proceedings in a book provided for that purpose. He shall receive all money due to the company, and promptly deposit the same in the bank designated by the directors. He shall, once a month, or oftener, if required, make a statement of the current business of the company, submit the same to the committee of finance and accounts, and if approved by them, lay it before the board. He shall cause a notice of every meeting of the board of directors to be delivered to each member at least one day previous to the time fixed for meeting, and shall give notice of the meetings of the company, in such manner as shall be directed by the board. He shall also cause

\* Robert Rankin calculated tables on the mortality of the sea-port city of Bristol, with Bedminster, England, based on two five-year observations of burials—1813-17 and 1818-22; total burials, 20,566. Suicides, casualties and criminals were rejected. These tables were constructed upon the same method as the Northampton, and applied to different classes of persons. For the general population of Bristol (Table II, 10,000 births,) substantially or nearly the same after-life expectation of each age was given as in the Northampton table; while in the case of the mortality of Friends (Table IV, 264 births,) the expectation was higher, but less than by the Carlisle table. The two columns, however, disclose the difference in average after-life, as between Friends and the general population, when the same rule was applied to two such different aggregations of personal life. Expectations of life by these two tables compared as follows for the decennial ages given:—

EXPECTATION OF LIFE.		
	General Population.	Friends.
	Years.	Years.
Age 10, . . . . .	39.77	46.67
20, . . . . .	33.17	39.51
30, . . . . .	28.01	33.34
40, . . . . .	23.12	26.98
50, . . . . .	18.12	20.97
60, . . . . .	13.11	13.61
70, . . . . .	8.94	9.45
80, . . . . .	5.53	4.54
90, . . . . .	2.74	0.50

The less expectation of Friends from and after age 80 was owing to the greater accuracy of the data in respect to them, as compared with the data as to general population.



a notice to be given to the chairman of each committee, designating the names of the members thereof, and the object for which they have been appointed. He shall receive all applications for insurances, annuities, trust accounts, etc., make the necessary investigations and calculations, and enter in a book to be kept for that purpose, all the computations relating to the business of the company, for the use of the company.

The mortality scale adopted for all contracts, excepting joint-life, was that of the New England Mutual, a tabulation deduced from different recognized tables, with 4 per cent. interest; for joint-lives, Carlisle, 4 per cent. Criticism upon the Combined Experience table, as an experience as to policies and not as to lives, was tending to retard the general acceptance of such table. The loadings of the mortality premiums were as follows: Ordinary life, 25 per cent.; fifteen or twenty payments, 20 per cent.; five or ten payments, 18 per cent.; term policies (non-participating), 25 per cent.; joint-lives, 35 per cent. Premiums were all cash or one-half note. Dividends to policyholders were to be made upon the Contribution plan, and begin upon payment of third yearly premium; amount of dividend to be applied in reduction of notes or future cash premiums, or for increase in sum insured. By the Contribution plan, as charging the insured solely for the actual death rate experienced, the Provident was brought in nearer conformity to the Yorkshire Provident's "scale of low premiums specially adapted to the rate of mortality amongst the Society of Friends."

Including the Girard Life as in the field for new business, the Provident's participating premiums for the principal classes of policies compared as follows, per \$1,000 insured, with the three working Philadelphia life offices:—

	Ordinary Life Premiums.			Ten Payment Life.			Endowments, Age 30.		
	<i>Ages.</i>			<i>Ages.</i>			<i>Payable in years.</i>		
	25	40	55	25	40	55	10	20	30
	\$	\$	\$	\$	\$	\$	\$	\$	\$
Provident, . . . . .	19.80	31.50	59.40	42.34	58.46	86.75	100.30	45.63	29.58
American, . . . . .	20.40	32.00	59.00	45.80	63.90	96.05	126.35	55.60	. .
Girard, . . . . .	20.40	32.00	57.80	45.84	63.55	91.04	95.26	44.71	30.04
Penn Mutual, . . . . .	20.40	32.00	59.40	46.67	61.68	92.24	125.70	52.26	32.10

The American's earlier table of endowment rates proposed 30.04 as the rate for the endowment for age 30, maturing in thirty years, and the rate of such policy maturing in twenty years was 44.61.

Business was begun by the Provident, June 28, 1865:—President, Samuel R. Shipley; vice-president, William C. Longstreth; actuary, Rowland Parry.

With the temporary depreciation of the Combined Experience table in 1865 as a standard of life insurance mortality—of which disfavor the tabular mortality selected by the Provident Life and Trust was an evidence—the New York insurance department proposing to enter upon a departmental valuation of life policies to supersede the valuations accepted from the companies, adopted for the purpose Dr. Farr's English Life table, No. 3, for males, with

5 per cent. interest.\* This table reduced, as compared with the Combined Experience, the average of after-life from a given age, but the change from 4 to 5 per cent. was an absolute reduction in net value.

Life insurance throughout the country was advancing, not only in aggregate amount in force, but in increasing annual ratio. The growth in 1865 was adding about 45 per cent. to the total which had accumulated through the preceding years up to the close of 1864. The agencies in the city had either reached or exceeded the amount on resident lives carried by the local companies. Solicitation was alert, ingenious, persistent and effective, and promises began to run ahead of ability to perform. Matters which waited upon the future to determine were accepted as consummated.

A case arising out of circumstances taking place before the war was now finally adjudged by the Supreme Court. Isaac Elliott, a conveyancer of the city, died in November, 1859. February 12, preceding, Mr. Elliott had secured a policy in the International for \$10,000; March 2, a policy for the same amount was issued by the Manhattan, of New York, and another also for \$10,000 was issued next day by the New England Mutual, of Boston. An insurance for \$10,000 was also effected in The Mutual Life, of New York. The International's policy expressly provided that the insured "may assign to whomsoever he pleases without the knowledge or assent of the society." The Manhattan and the New England Mutual had not waived notice of assignment. The New England Mutual stipulated that an assignment should be void unless assented to by the company. September 10, Mr. Elliott endorsed upon the International's policy an assignment of all right, title and interest therein to J. Thomas Elliott, "in trust for the only use and benefit of my wife, Eliza T. Elliott, her heirs and assigns." On the same day he made a like endorsement upon the policy of the Manhattan and on that of the New England Mutual. Assent thereto by the New England Mutual was duly given. Upon the death of the insured the three assigned policies were found in his iron safe, but it was discovered that his estate was insolvent. The executors collected the amount of The Mutual Life policy and carried it into their account. Upon the three assigned policies the trustee collected and

\* At 5 per cent. interest, net annual premiums, whole-life policy, were of the following percentages by the two scales of mortality :—

	Combined Experience.	English Life, No. 3.
Age 20, . . . . .	1.1585	1.3087
30, . . . . .	1.5291	1.7173
40, . . . . .	2.1666	2.3891
50, . . . . .	3.3512	3.5504
60, . . . . .	5.5103	5.6565
70, . . . . .	9.5558	9.7036

As to prevent incongruity, the policy should be valued by the same death scale and interest rate as were used in constructing the premium, the effect as to the policyholder would have been, by the general adoption of the new mortality scale, a higher cost of insurance with like rate of interest, and rather less accumulated value of policy.

Only two States as yet had legal standards of valuation, viz.: Massachusetts, Combined Experience 4 per cent., and Georgia a "rate of mortality at 25 per cent. above the average of the best tables, and the rate of interest at 4 per cent., and the annual expenses at the percentage paid by the company in the preceding year." The latter regulation avoided question as to the defects of any particular tabulation; and as to whether there would be any excess in the premium loading for a present value account, that would be measured by the measure of a company's present expenses.

invested the moneys in the individual name of the *cestui que trust*. The auditor appointed by the court at the request of the creditors of the deceased surcharged the accountants with the amount of the Manhattan Life policy, stating that notice of assignment had not been given, but declined surcharging them with the other two assigned policies. The executors complained of the first part of the auditor's decision, and the creditors of the second part. The Orphans' Court confirmed the auditor's report. The executors appealed as to the surcharge of the one policy, and Mr. Clay, the auditor, appealed from the other part declining to surcharge as to the other two assigned policies.

Supreme Court. Read, J.: . . . . . I am inclined to think that under the decision of the Lords Justices, reversing the Master of the Rolls *in re, Ways' Trusts*, 34 L. J. C. 49, 10 Jurist N. S. 1166, that all these assignments stand on the same footing; notice of the assignment to the trustee, or to the company, in the case of an International policy being unnecessary. The assignments were all voluntary, and would have been good against heirs, devisees or legatees, but here the decedent died insolvent, and the question is, Are they good against creditors?

These three assignments of the policies, which are the subject of the appeals before us, were therefore all fraudulent as against the creditors of the decedent, and his executors must be surcharged with the other two in addition to the one with which they were surcharged in the court below . . . . . The proceeds of the policies belong to the creditors and estate of the decedent.

We are to be understood in thus deciding this case, that we do not mean to extend it to policies effected without fraud directly and on their face for the benefit of the wife, and payable to her; such policies are not fraudulent as to creditors, and are not touched by this decision. (14 Wright, 75.)

With expectancy of great results, life insurance companies were organizing in confidence of success in New York and elsewhere, and made further additions to the life agencies in the city. The spirit of the time is indicated by a circular of the Widows and Orphans' Benefit Life Insurance Company of New York, setting forth at date of January 10, 1866, what this fifteen-month-old company had accomplished and what it was prepared to do; the secretary declaring:—

I have the gratification of announcing to policyholders that the board of trustees of this company, at their annual meeting held this day, have resolved that on the 17th day of December, 1866, and annually thereafter, a distribution of surplus existing on the first day of July preceding be made upon all policies which shall have been in force one year at the date of such distribution. Such dividends may be used either in payment of accruing premiums, or by adding the reversionary value of the same to the policies.

I take also pleasure in stating that after an unusually prosperous business of fifteen months' duration, the company has not met with a single loss, and in calling your attention to the fact that no other life insurance company has ever declared a dividend to its policyholders upon a first year's business at so early a period of its existence. The company enters upon its second year firmly established in the confidence of the community, and with every prospect of largely increasing its sphere of usefulness and the benefits conferred upon its policyholders.

Here was a venture of respectable character, and not directed by inexperienced persons, discovering a dividend in the first year's operations—all essentially of a preliminary character—and further annual dividends were announced in advance for the years to come, and the company was yet to give evidence of ability to live.



With the assumption that the funds would earn an average of 6 per cent. interest for about the remainder of the century, and the mortality experience be below the tabulations, the test of the stability of a company became the ability to procure risks and the expense attending their procurement. Dividend practices were a virtual declaration that the premiums styled participating were essentially more than was needed to provide for the deaths and expenses, and assure, besides, the permanence of an office. The difference in dividend ability between an established office and one in the process of establishment was not recognized, or was disregarded. The Massachusetts department, which blended in about equal proportion sound doctrine with erratic utterance, argued in favor of "frequent periods of divisions" of surplus; and recognizing the "propriety of assuming interest below and mortality above that which is expected," and admitting that "the institution must be strengthened against other causes of failure than the fall of interest or the excessive increase of death rate," held that provision for such strengthening could as well be made "in the name of interest and mortality as in any other, seeing that the known and unknown hazards will probably bear a nearly constant ratio to each other." So the interest rate being a provision for more than interest earning, and the death rate a provision for more than death, new companies started up to do business on the basis of the newly engendered expectations, and did not find the "nearly constant ratio" between "the known and unknown hazards." Such expectation of the Massachusetts State insurance department was like another which it announced in 1865, viz.: "When we consider the great acceleration of the endowment business, and the sound reasons for it, we may expect that in another ten years very few whole-life policies will be issued. This change will greatly promote the health, prosperity and usefulness of the business."

Twenty-five other-State companies were now writing policies on Philadelphia lives. The Universal, of New York, had entered the city. This company was organized February 1, 1865, with a stock capital of \$200,000. A part of its business was to be the insurance of lives rejected under the medical examinations of other offices. Its "surplus," after paying  $3\frac{1}{2}$  per cent. semi-annually to the stockholders, was to remain until \$2,000,000 had been accumulated, as a guarantee to the policyholders. For its general life business the new table constructed from the mortality experience of The Mutual Life, of New York, was adopted, with premiums without allowance for any division of any supposed surplus among policyholders; variable percentages of loading.\* For diseased lives some sort of advanced rates were charged, but this experiment was soon discontinued.† Policies on impaired lives so passed out of the American life insurance category. No tabular expression had been devised

\* The whole-life premium of the Universal for healthy entrants, all non-participating, ranged per \$1,000 insured, from \$14.92 at age 25 to \$76.91 at age 65. Taking the rate at age 35, \$19.78, with 6 per cent. interest assumed, the loading was about 27 per cent.

† Invalid insurance was best practicable under short term-payment life policies. Of the \$2,000,550 of insurance in force in the Universal at the end of 1865, \$1,162,550 were under short term and endowment policies. Insurance upon diseased and impaired lives was discontinued by the Universal in the spring of 1866, and at the end of this year \$866,200 of such insurance were in force. Of this amount nearly \$600,000 remained at the close of 1867; and while the company admitted that on its aggregate business (\$5,967,890 in force December 31, 1867,) the expenses of management had exceeded the premium loadings, it reported its whole mortality experience below the table mortality.

of the life decrement of incurables,\* and doubtless every specific form of constitutional disorder or functional derangement has its own death cost; but health and longevity are, insurance-wise, different phenomena. Men die after years of sickness; men die after weeks of sickness. The insurance proposed was to deal with disease as chronic rather than acute, and although a chronic complaint is one whose symptoms proceed or develop slowly, yet the Universal began with a theory that such lives would improve in vitality after a few policy years, although never approaching the vitality of selected lives.

Policies of companies of other States, in so far as not contrary to the laws of Pennsylvania, constituted the Philadelphia contracts of such companies. Outside of the State of Massachusetts surrender value of policy was at the option of the company. This form of return premium had become generally established as having its basis in the net value of the policy, whatever that might be, although there was such an instance as that presented by the Germania Life, of New York, whose surrender value was one-third of gross premiums received on whole-life policies after three years as present value. Other companies began to give total premiums received as a reversion or insurance value. So the Globe Mutual Life, of New York, about the earliest in making the latter mode of return premium, would award on surrender upon the basis of Combined Experience table, 4 per cent., for whole-life policy, age 30, surrendered at end of tenth year, a net single premium (\$230.20 of annual premiums received) of \$87.71, and the Germania (\$233 of annual premiums received) a net single premium of \$77.67. Apart from Massachusetts, any net value of policy was hardly established, though the five-year department valuation by English Life table, No. 3, males, had been enacted in New York. For 1866 the Germania estimated the value of its policies by such New York standard at \$900,000. The Globe Mutual Life estimating for English Life table, No. 3, males, 5 per cent., made the value of its policies \$478,121.99, *i. e.*, from Combined Experience, 4 per cent., deducting 10 per cent. As between gross premium receipts and value of policy as basis for surrender value, the subject was in confusion, with the former a more definite account than the latter as to such basis. Though consonant with the general insurance doctrines as to return of unearned premium, surrender value was abnormal to the contract. Its strict equity was a financial rather than an insurance question. What a company should do, was what it could afford to do in accordance with its financial position. Whatever measure of surrender value should be adopted, it was to be accepted that it should be such a one as would not impair the ability of the company to carry every existing policy to its normal termination. With this accepted, the inquiry was: Is the present a guarantee of the future? The Mutual Life, of New York, Sheppard Homans, actuary, declared that the surrender values of its policies were not estimated by means of assumptions for the future, but were based upon the facts of past experience. Simple term insurance had evidently no value for surrender.

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\* The English DMF table (diseased male and female lives) subsequently appeared: age 10, living 10,000, age 50, 6,426 surviving; HMF table, age 10, living 10,000, age 50, 7,183 surviving.



For short-term endowments the surrender values of the Equitable might reach to 95 per cent. of its net value of the policy.

The Girard, Penn, and Provident, of Philadelphia, made their several adjustments of surrender value according to their respective interpretations of it. Though the Girard was linked to the earliest usages of life insurance, under the actuarial direction of John F. James it aimed to preserve a just balance between accumulation and distribution, and announced that "a policy for whole life [as distinguished from mere term insurance] becomes valuable to the holder in proportion to the number of annual premiums he has paid, and such a policy the company will purchase at an equitable rate if he desires to cancel it." A life policy withdrawn in its twentieth year had, however, in equity more than double the surrender value of a policy for like amount and like initial age of insured withdrawn in the tenth year.

Massachusetts life companies doing business in Philadelphia had as their surrender-value regulation the Massachusetts act of 1861, compelling a surrender value of four-fifths of the net value of policy by Combined Experience table at 4 per cent. In other words, the whole net value was treated as gross single premium, of which the net premium was loaded 25 per cent., and such net premium was to provide, not its equivalent reversionary life value, but an insurance for the full policy sum for such term of years as the computation would indicate.\* The general proposition was qualified by a clause charging against a policy, in event of the insured dying within such term, the unpaid premiums of such term, with interest thereon at 6 per cent. The policies in force were, however, largely whole life, to which the act was adapted, and the discontinuing policies did not reach an average of four years' duration.

Against surrender value as incentive and facility to promote discontinuance of insurance, premium notes and loans on matured value of policy were something of a defence. Of necessity, or in consistency, the present value of a paid-up insurance was to be in cash; but, with premiums, yet payable, it was recognized that credits upon the policy to the extent of its net value were admissible. Substantially, with the credits merely the current insurance was paid for. The Guardian Life, of New York, Sabine, Duy & Hollinshead, general agents for the State of Pennsylvania, proffered its cash premium policyholders the loan of one-half of the premium at 7 per cent., and "in the case of temporary misfortune by sickness or losses, the company will, if desired, extend a helping hand to its members, aiding them to preserve their insurance when most needed and prized; neither compelling a forfeiture or sale of their policies, nor driving them to borrow elsewhere on such terms as

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\* The net single premium or present values of an insurance for \$100 by Combined Experience, 4 per cent., being tabulated for the successive yearly terms (10 to 99 years inclusive), the single premium for insurance of \$100 for age 30, one year, would be \$0.8101; for two years, \$1.5965; three years, \$2.3609; four years, \$3.1038; five years, \$3.8258. Now a policy for \$100, for age 25, discontinued at end of age 29, has a net value of \$4.058, and the single premium for surrender value would therefore be \$3.246. Such surrendered policy would begin the paid up insurance at age 30, and \$3.246 would pay for the insurance of \$100 more than four and less than five years. It takes \$0.722 (3.8258 — 3.1038) additional to insure \$100 in the 365 days of the fifth year, and  $3.246 - 3.104 = 0.142$  was the excess net single premium above that for four years; then, as  $365 \times \frac{142}{722} = 72$ , the surrender value of \$3.246 provided for an insurance of \$100 for 4 years and 72 days.—*Seventh An. Rep. Mass. Ins. Com's; Part II.*



necessities impose." Commissioner Wright, of Massachusetts, in a letter announcing that this company had a divisible surplus December 31, 1865, of \$48,841.07, further remarked that:—

With the ample security furnished to the policyholders by a large guarantee capital, in addition to a premium reserve, which may not unreasonably be regarded as sufficient without the capital, and this earnest of a disposition to deal with them as liberally as the safety of the company will allow, I see no reason why you should not retain your present members and continue your present rapid rate of increase, with a diminishing ratio of expense and an increasing ratio of surplus.

A seventeen-year recurrence of the Asiatic cholera in 1866 in Philadelphia was attended with 910 deaths (45 colored), with a population of about 610,000; 16 of the deaths were of persons from the country.

	Adults.	Minors.	Total.
Males, . . . . .	421	62	483
Females, . . . . .	375	52	427
	<hr/> 796	<hr/> 114	<hr/> 910

There had been 18 fatal cases in 1865, in which year the general mortality was greater in the city than in 1866; total deaths in the former year 17,169, in the latter 16,803, but the lessened death rate of the latter year was altogether among the colored population. The white adult female population suffered a rather unusual degree of comparative fatality in 1866. The two years were marked by the following specific fatalities:—

	1865.	1866.
Cholera, . . . . .	18	910
Cholera morbus, . . . . .	38	248
Cholera infantum, . . . . .	884	1,031
Dysentery, . . . . .	367	248
Diarrhœa, . . . . .	371	290
Small-pox, . . . . .	524	144

The North America Life, of New York, N. D. Morgan, president, increased the legislation with respect to value of policies by securing a special New York act authorizing it to make deposits in the State insurance department with policies to be issued thereon. Then a general act of the same tenor was passed, authorizing any life company to make such special deposits—not less than \$25,000 each—with the State insurance department, to be legally transferred to the superintendent thereof, and sufficient to cover the agreed net value of policies, Carlisle, 5 per cent.; and thereupon the superintendent was to issue to such company "registered policies or annuity bonds," "bearing upon their face the words, 'This policy, among a limited number, secured by pledge of public stock or bonds and mortgages,' with the seal of the said department, and shall be countersigned by the superintendent or his authorized deputy." The securities deposited from time to time were to be "held by the superintendent in trust until the obligations of the said depositing life insurance companies respectively under the said registered policies and annuity bonds shall, to the satisfaction of the said superintendent, be fully liquidated, cancelled or annulled."

In the matter of the conveyance of certain ground rents in Philadelphia to the Mutual Benefit Life Insurance Company of New Jersey, the Supreme

Court of the State decided that the following act, approved April 2, 1860, was constitutional, no rights of any person but the parties applying for the act having vested:—

SECTION 1. Be it enacted, etc., That two certain deeds of conveyance executed to the Mutual Benefit Life Insurance Company of Newark, New Jersey, one of them by Joseph L. Lord and Fanny, his wife, bearing date November 21, A. D. 1854, and recorded in the office for recording of deeds, etc., in and for the county of Philadelphia, in deed book S. H., number 176, page 376, etc.; and the other of them by William F. Emlen and J. Dickinson Sergeant, trustees of the Sepviva estate, dated the 15th of January, A. D. 1855, be and the same are hereby declared to be valid and effectual conveyances in the law, for the purpose of vesting in the said life insurance company, the grantee in them named, the estate by the said deeds conveyed, notwithstanding the fact that the said grantee is a corporation foreign to the State of Pennsylvania; and that any and all rights of escheat existing in the commonwealth, if any such there be by reason of such conveyances, be and the same are hereby released, so that said deeds shall have the like effect in law, in all respects, as if said corporation had been authorized by law to receive the estate by such deeds conveyed. (Approved April 2, 1860.)

Lord being owner of fifty-two ground rents and indebted to the company, and contemplating additional advances on the whole to the amount of \$30,000, had agreed to convey such ground rents to the foreign corporation, the corporation to execute a defeasance showing that such conveyance was but a mortgage. The deed was delivered, but the defeasance was not executed. December 1, 1854, Joseph Alison, at the instance of Lord, assigned to the company a mortgage dated October 13, 1852, for \$4,000, which he held against Lord, covering the premises out of which the ground rents issued. Afterwards, Lord, by a bill in the Supreme Court setting out the facts, prayed that the company might be decreed to execute and deliver a defeasance, and the company admitting the allegations, a decree was made January 15, 1858, directing a defeasance, which should be recorded with the deed of November 21, 1854, and both instruments to operate as a mortgage. A defeasance dated December 31, 1857, and acknowledged January 5, 1858, was delivered and filed in the cause. The company, January 28, 1859, entered judgment against Lord for \$8,000 (the penalty) on the bond accompanying the Alison mortgage, but the defeasance acknowledged January 5, 1858, was not recorded until October 6, 1862.

An action of covenant was commenced in the District Court of Philadelphia, December 1, 1860, by the Mutual Benefit Life, assignee of Joseph L. Lord, against William Caverow, with notice to John McKee, terre-tenant. In error to the District Court (Caverow *vs.* the Mutual Benefit Life), the Supreme Court held that the act of assembly was a conveyance by matter of record, and settled the title in the grantee.

The American Life, of Philadelphia, received \$700,262 of premiums in 1866, paid \$223,348.40 for claims, \$43,433.34 for returned premiums and purchased policies, and \$45,135.41 for "bonus certificates purchased and dividends paid from former surplus." This office made no surrender value stipulation. About one-fifth of its outstanding policies had been issued at non-participating rates, with small margin of loading. It was still declaring a percentage dividend of 50 per cent. of the premiums on mutual policies, credited to the policy, and ultimately payable in settlement of premiums as



they should mature; and these were Carlisle, 4 per cent., loaded 25 per cent. The premium-receipt account of the American was of larger amount at this time than that of any other Philadelphia life office. It allowed 50 per cent. agent's commission on first premium, and made no contracts involving commissions on first premiums with renewals.

Being a subject for conjecture, different opinions were forming as to whether solicited life risks involved less moral hazard than where the applicant came through his own self-prompting to the office. The earliest life insurance practice in England and the United States was, however, of the latter character, and it had developed but the minimum of fraudulent intent. Such purpose might, however, indirectly arise from the solicitation, and be suggested by it; and further, while apparently the introduction of the applicant by the solicitor was rather a carrying out of a purpose of the latter than of the former, yet the former could avail himself of such form of proceeding as a covering to his own design. The American Life was resisting a claim for \$10,000. A stranger named Richards, while in Philadelphia in 1865, was brought to the office by one of the company's agents, and a policy for the amount named was issued by the American in June, and in the same month the Charter Oak Life, of Hartford, issued a \$10,000 policy on the same life in the State of Maryland. Both policies were assigned to one Connor. On the evening of September 15, following, Richards taking a walk along the Susquehanna river, near Perryville, with two companions, went into bathe, and such two companions heard Richards, who was swimming about in the darkness, cry out that he had the cramps, and the two men being frightened ran for a boat, and when they returned they could neither see nor hear anything of Richards, and they believed him to be drowned. Such testimony was given in a suit brought by Connor against the American Life. One witness of the defendant company had seen Richards alive once after such drowning, another three times, etc. While this case was pending, a Philadelphia life agency illustrated the effect of combining the medical examiner of the risk and the paid risk-procurer in one person—the mere statement of such a conjunction should have been as the sounding of an alarm. A capable physician was employed as medical examiner and also as an agent, at 50 per cent. commission on first premiums. An early death of a "No. 1" risk, certified and placed by such medical-examiner solicitor, caused an investigation which, owing to the circumstances attending the case, resulted in his dismissal.

Court of Common Pleas, No. 3, Philadelphia, sitting in equity, March 23, 1867, Brewster, J., dissolved a temporary injunction which had been obtained by E. V. Machette against the New England Mutual Life, Hodges & Sully, agents. Machette had contracted in 1862 with Hopper, chief agent of the New England Mutual, to become an agent in Philadelphia of such corporation, receiving 10 per cent. commission on each first premium on policies procured by him, and 5 per cent. of renewal premiums. He continued as such agent until October, 1866, the company having, in October, notified the persons whose insurance had been secured by Machette that he was no longer agent



of the company, and requiring such persons to renew their policies through Hodges & Sully. Machette's bill of complaint averred "right to collect every such renewal premium, and remit the same to the company after deducting the said compensation," and prayed for an account and an injunction forbidding the defendants "from interfering with complainant in collecting the renewal premiums until adequate security is given for the commissions to which complainant is entitled."

Brewster, J.: . . . . . Were the complainant's averments uncontradicted, his right to an injunction would be exceedingly questionable. . . . . His right to the commissions and his authority to collect the premiums are distinct and independent privileges. He might have the former without the latter power. If the company can dismiss him from his agency—and this he does not dispute—how can any debtor safely pay to complainant, or how can complainant legally receipt in behalf of persons he no longer represents? In this view of the case the injunction would produce to complainant a greater injury than that he asks us to restrain. For, should we enjoin the insurance company, they could not receive the premiums. The complainant is no longer an agent. He dare not sign a voucher in that capacity, and thus the premiums would be uncollected, and all parties injured, with no possible benefit to either side. A "dead-lock" is as much to be avoided in the law as in mechanics.

July 1, 1867, the Provident Life and Trust discontinued the taking of half-note premiums.

August 30, the Hand-in-Hand Mutual Life Insurance Company of Philadelphia was started, with a subscribed capital of \$100,000, some fraction of which was paid in; president William F. Smith, vice-president Joseph Collins, secretary Robert M. Foust.

For year ended November 30, the Germania Life, of New York, paid \$2,348.28 of taxes, being amount for anticipatory premiums under a five-year license, and paid tax under protest, with a view to testing the constitutionality of the law exacting the same.

In dividend additions to policy sums, other-State companies were now beginning to make extraordinary enhancement of the original amount insured. One company went so far as virtually to declare that a single annual whole-life premium would insure something to the end of life, viz.: with mortality below the assumption, and interest receipts above, making a dividend of 50 per cent. of premium practicable, one annual premium would provide for one-half of the insurance in the second year, one-third in the third year, one-thirtieth in the thirtieth year, and so on. Such anticipation was indulged in with one-third of the existing life companies exceeding in their expenses the loadings on their premiums. It was, however, a suggestion to decrease annually *amount* insured, instead of decreasing *time* while preserving full amount of insurance as in Massachusetts surrender values.

An act of the State legislature relating to policies of life insurance and annuities, approved April 15, 1868, was as follows:—

All policies of life insurance or annuities upon the life of any person which may hereafter mature, and which have been or shall be taken out for the benefit of, or *bonâ fide* assigned to the wife or children or any relative dependent upon such person, shall be vested in such wife or children or other relative, full and clear from all claims of the creditors of such persons.

As an outcome of the theories in vogue as to the opportunities of the life contingencies to afford bases for speculations, a scheme called the Public Life Insurance Company was commenced in the city, and vanished at its commencement. It proposed four classes, numbering respectively 500, 1,000, 2,500, and 5,000 members, of any age between 15 and 60 years; the members enrolled in numerical order, and the number of each one specified. It was a death lottery; and each class ended with a single death. A single premium was to be paid of \$5 or \$10 by each member. Upon the death of one, three-fourths of the aggregate premium receipts, without interest, were to be divided equally between the representatives of the deceased on the one part, and the two members between whom the deceased, as numbered, was intermediate. Such a project could meet with neither acceptance nor endorsement.

Conflicting legislation of different States and incongruous State valuations of life policies, with statutes inimical to other-State offices, induced an attempt to secure a national supervision of life insurance affairs, partly displacing State administration of such office. Under a call prompted by Hartford life offices, a convention of life underwriters had met in Hartford for the purpose of forming what was called a "National Actuaries' Institute," and at a subsequent meeting in New York, with a larger representation of companies, an association was organized entitled the Chamber of Life Insurance of the United States, and one of the resolutions adopted on the occasion instructed "the executive committee to seek by all legitimate means the enactment by Congress of a law establishing and applying annually a proper test of the sufficiency of the assets of each company, and that every company coming up to the requisitions of this law shall be allowed to do business throughout the United States."

The National Life Insurance Company of the United States of America was incorporated by an act of Congress approved July 25, 1868. This enterprise began under the auspices of members of the banking firm of Jay Cooke & Co., of Philadelphia and Washington, D. C. A capital of \$1,000,000 was paid in immediately, and the first policy was issued August 1. The *locus* of this corporation was the District of Columbia. It was claimed that under its charter such corporation was empowered to do business in the United States irrespective of State laws. The National, however, proceeded at once to take out State licenses, and its principal office was located in Philadelphia; Clarence H. Clark, president, Emerson W. Peet, secretary and actuary; Jay Cooke, chairman of the finance and executive committee. E. W. Clark & Co., bankers, were the general agents for Pennsylvania and southern New Jersey. The National, of the United States, issued non-dividend policies on various plans in vogue, including return-premium plan and income-producing plan; the meaning of these two was, simply, the more premium paid, the greater the return for the premium received.\* Innumerable figurings could be produced to provide schemes supposed to be attractive to the public.

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\* Return-premium plan was an accumulation of net value of policy plus gross premiums received. If, interest being taken at 4 per cent., \$16.97 would insure a given amount  $A$  at age 30, \$29.74 would pay the amount  $A$  in event of death, and the sum of all the amounts of \$29.74 received; excess interest-earning of the special deposit discharging the expenses. Using commutation columns, the quotient of  $\frac{M_{30}}{N_{30}}$  was the annual premium for the insurance of each dollar of  $A$ , and the quotient of  $\frac{M_{30}}{N_{30} - R_{30}}$  was the provision for



Through the banking-house of Drexel & Co., a rival company to the National, of the United States, the United Security Life Insurance and Trust Company, was started, under a Pennsylvania charter approved April 13, 1868, —chartered capital \$1,000,000; president George H. Stuart, secretary C. F. Betts, manager William Getty. The sum of \$100,000 was deposited with the auditor general of the State under the Pennsylvania deposit law. In its programme the United Security embraced low cash premiums, non-forfeitable policies, annual dividends, and females insured at the same rates as males.

The Hahnemann Life Insurance Company of Cleveland, Ohio, the first of the American life companies identified with a distinctive medical school, entered Pennsylvania in 1868. As homœopathy was a radically distinct medication in the treatment of diseases, with a partial difference in pathology, if not essentially different in diagnosis, its effect on the prolongation, or otherwise, of human life, was a life insurance question, and its methods fairly a distinctive part of the life insurance technique. The system pointed to new observations in the physiological relations of disease, and in so far might affect the conduct and character of the medical examinations. Doses reduced to the hundredth, thousandth, or millionth degree, substantially removed all chemico-medical action from the human system, and induced therefore more rigorous consideration of their relations to organic functions. The General Provident Life Assurance Company of London decided in 1864 to adopt tables for reduced rates for homœopathists, and such were introduced, it was claimed, as merely “the decision of business men on a question of business.” With some data as to difference of results in hospital practice, essentially nothing was known as to any difference in vitality between allopathists and homœopathists as such, and the basis for the construction of a table for distinctive homœopathic mortality was not at hand. Rates in American practice were reduced about 10 per cent. from the general standard, but this was founded rather upon the supposed margin in participating premiums than the assumption of lower mortality; any lessened mortality which might be experienced to be accounted for in the dividend returns. Life insurance mortality is largely *sui generis*, independent of any element of general death rate, and the Hahnemann Life experienced a rather high rate of mortality for new lives.

At the close of 1868 the United Security had 68 policies in force, insuring \$404,000—beginning later in the year than the National; the latter had 1,980 policies in force, chiefly whole life, insuring \$6,341,950.

July 15, 1868, the Provident Life and Trust was authorized to transact business in the State of New York, being the first Philadelphia life insurance company so authorized by the insurance department of that State. The Penn Mutual Life received like authorization March 1, ensuing.

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return of premium with payment of the policy sum. Insurance of \$1,000, age 40, net annual premium being \$23.68, the annual premium of \$48.02 could be all returned with the payment of the policy sum. Like the perpetual deposit in fire insurance, the Home Life, of New York, issued so-called perpetual life policies, insuring upon a deposit withdrawable at the option of the insured, less 10 per cent. on amount deposited. It was announced that *if the company cancelled*, there was no deduction from the returned deposit.



From organization to December 31, 1868, twenty years, the Penn Mutual Life received premiums to the amount of \$3,812,500, paid losses and claims to the amount of \$1,268,587, and the net value of policies chargeable against it at the close of 1868, by Combined Experience, 4 per cent., was \$1,501,970.69—amount of insurance in force \$15,049,740. Amount of dividend scrip and other unpaid dividends was \$657,680. Dividends had been declared in each of the last five years at the rate of 50 per cent. upon premiums paid. Scrip was receivable three years after issue in reduction of cash premiums, or in cancelling premium notes. About one-half of the risks were free of future commissions. Only about one per cent. of the insured were female lives. In its three and a half years of business the Provident Life and Trust had received \$443,900.54 of premiums, and paid \$46,500 of losses and claims, and was paying annuities to nominees that had paid therefor \$12,747.12. Number of female lives insured was 75. The amount of insurance in force December 31, 1868, was \$5,780,988—net value, American Experience, 4½ per cent., was estimated at \$320,000.\*

The policy data of the three active Philadelphia life offices were as follows:—

\* The premiums of The Mutual Life, of New York, were based upon a mortality table constructed by Actuaries Gill and Homans, using 4 per cent. interest; but The Mutual Life had previously begun the valuation of its policies by a tabulation constructed under the direction of Mr. Homans out of the company's own experience. In England a New Actuaries' table had been devised to supersede the old Actuaries' or Combined Experience, and constructed out of insurances in twenty English and Scottish offices having a mean duration of from 9 to 10 years; and the New Actuaries' was distinguished from the old as computing personal lives and not policies. The proportion of female life involved in the observations of healthy lives was 11.3 per cent., but the sex mortality was treated distinctively. In 1868 the valuation standard of the State of New York was again changed with a view to adopt a death anticipation resting upon American experience with insured lives, suitable for uniform adoption by the increasing State insurance departments; and for the English Life table, No. 3 (males), at 5 per cent., was substituted The Mutual Life's graduation at 4½ per cent., and such graduation of insured life decreasing by death was entitled The American Experience Table. This table ranged from the beginning of age 10 to the close of age 95. For age 10, taken as the highest vitality, the death ratio was 0.7490, against 0.561 English Life table, No. 3 (males), 0.676 old Actuaries', and 0.790 New Actuaries' (males). With a death ratio as high as seven-tenths of one per cent., and above, at age 10, and the death rate an increasing ratio of increase at each successive year of age, life necessarily vanishes at about age 96, or remains as an infinitesimal residuum. The four respective scales of survivorship named compared as follows:—

	Number Living.			
	Combined Experience.	English Life, No. 3. (Males.)	New Actuaries' (Males). Ungraduated.	American Experience.
Age 10, . . . . .	100,000	353,031	10,000	100,000
20, . . . . .	93,268	333,608	9,616	92,637
30, . . . . .	86,292	304,534	8,987	85,441
40, . . . . .	78,653	272,073	8,223	78,106
50, . . . . .	69,517	233,216	7,274	69,804
60, . . . . .	55,973	182,350	5,898	57,917
70, . . . . .	35,837	114,370	3,793	38,569
80, . . . . .	13,290	41,115	1,392	14,474
90, . . . . .	1,319	4,770	150	847
95, . . . . .	89	833	15	3

The New Actuaries' was subsequently designated the  $H^M$  table.

At age 40, interest 5 per cent., \$1,000 insured, whole life, net annual premium, English Life table, No. 3, (males), was \$23.89; American Experience, 4½ per cent., \$21.30; Combined Experience, 4 per cent., \$23.68; American Experience, 4 per cent., \$22.39. The English No. 3 table (males), 5 per cent. reserve, had been generally estimated at 10 per cent. less than Combined Experience, 4 per cent.; but it was lower than this, and would be still less according to younger age of insured. The reserve by American Experience, 4½ per cent., was less than that of the Combined Experience, 4 per cent., according to the character and duration of the policies.

	PENN MUTUAL.		AMERICAN.		PROVIDENT.	
	No.	Amount.	No.	Amount.	No.	Amount.
<i>Issued in 1868.</i>						
Whole-life policies, . . . . .	717	\$2,588,205	1,786	\$4,724,532	. .	. . . . .
Endowments, . . . . .	163	643,975	232	538,375	. .	. . . . .
Short-term and other policies, . .	. .	. . . . .	521	1,257,726	. .	. . . . .
Joint-lives and survivorships, . .	. .	. . . . .	312	756,950	. .	. . . . .
Annuities, . . . . .	. .	. . . . .	2	1,530	. .	. . . . .
<i>In Force, December 31.</i>						
Whole life, . . . . .	4,376	13,837,715	8,269	20,245,170	935	\$2,971,230
Endowments, . . . . .	330	1,212,025	296	759,375	963	2,563,567
Short-term and other policies, . .	. .	. . . . .	1,408	3,031,907	105	444,500
Joint-lives and survivorships, . .	. .	. . . . .	309	723,450	11	45,000
Annuities, . . . . .	. .	. . . . .	. .	. . . . .	13	2,191*
						* Payable.

A large portion of the policies in force in the American were on lives in the valley of the Mississippi and of the Ohio. The receipts in 1868 of the Penn Mutual were 77 per cent. of those of the American, the disbursements 40 per cent. of those of the American. The American disbursed more in the year for losses than the entire outgo of the Penn Mutual in the year.

What little joint-life insurance was practiced was mainly that for benefit of the survivor of two lives. Joint-life insurance was, however, adapted to cases of co-partnership, where an interest of each of two or more persons was contingent upon the life of the other person or the other persons. It was non-participating as to surplus, and with high percentages of premium loading.†

At the session of the State legislature convened in 1869, the Penn Mutual, the American Life, and the Provident Life and Trust submitted a memorial upon the 3 per cent. tax on the Pennsylvania life premiums of non-State companies as injurious to the progress of life insurance and restrictive of its social benefits. Retaliatory laws in other States had burdened the premiums of Pennsylvania companies received in such States with a like 3 per cent. tax, and a bill was submitted to base the tax imposed on the premiums received by non-State companies within the State upon State reciprocity. The proposition ended with the committee of ways and means of the house, to which the bill was referred.

As yet the Pennsylvania Company for Insurances on Lives and Granting Annuities was issuing a few whole-life policies a year, and the Philadelphia

† With Carlisle mortality, two lives, each aged 40, interest 4 per cent., the computation began as follows: Living, age 40, 5075; living, age 41, 5009; probability of the *two* not existing at end of the fortieth year is  $1 - \frac{5009}{5075} \times \frac{5009}{5075}$ . The amount, which will produce one dollar *certain* at the end of one year, is  $\frac{1}{1.04}$  = .96154; and  $(1 - \frac{5009}{5075} \times \frac{5009}{5075}) \times .96154$  is the amount which, one dying, will pay one dollar to the survivor of the two lives. Number living at age 42 is 4940, and the amount to produce one dollar in two years is  $(\frac{1}{1.04})^2$  or .92456, and the compound fraction expressive of the probability of the two surviving in the *second* year is  $\frac{4940}{5075} \times \frac{4940}{5075}$ ; therefore,  $(1 - \frac{4940}{5075} \times \frac{4940}{5075}) \times .92456$  is the amount which would pay one dollar, should one of the two die in the second year, etc., and is the amount *for* that year. Carried out to the end of the mortality table, the sum of the successive annual reductions by combined discount and death is the single premium for whole joint-life.



Fire, previously Fire and Life, which had ceased to issue life policies, had still in force a remainder of its old life contracts, and, unlike the former company, was not in a position to sustain a life policy. Forfeitures, therefore, were a not undesired help. A policy for \$5,000 on the life of R. Kent was issued in July, 1851, quarterly premiums, regularly and irregularly paid, were received until October 2, 1864; premium due on that day was tendered October 5, and declined, and with a total premium payment of \$2,421.06, the policy was declared forfeited. A suit in equity was at least commenced against the company, and the court was asked to decide that the complainant's policy was still in force, and that the defendant be ordered to receive the premiums due and to become due. In 1868 the District Court directed a non-suit to be entered in an action of assumpsit brought by Georgiana Helme against this company to recover premiums paid, on the ground that the policy had been wrongly forfeited. The policy was for whole life, \$1,000, \$8.56 quarterly premiums, with this clause:—

In case the said Georgiana Helme shall not pay the said annual, semi-annual or quarterly payments hereinbefore mentioned on or before the several days appointed as aforesaid for the payment of the same, then and in every such case the said company shall not be liable to the payment of the sum insured, or any part thereof, and this policy shall cease and determine. And it is further agreed, that in every case where this policy shall cease and determine, or become null or void (except in case of death), all previous payments made thereon shall be forfeited to the said company.

Policy was dated December 31, 1850. Premium due June 30, 1867, was tendered July 8. Mrs. Helme was then in good health and willing to undergo reëxamination by a physician at her own expense. It was testified that notices had been sent as to previous premiums, but none had been received for this July premium.

In Error. Thompson, C. J.: . . . . . The plaintiff below offered on the trial to prove a custom among life insurance companies to allow thirty days' grace for payment of premiums due, even where a clause of forfeiture for non-payment on the day exists. The rejection of the offer by the court forms the first bill of exceptions and assignment of error to be considered in this case. It might have been a difficult thing to prove such a custom, but that was not a good ground on which to refuse the offer. It was the plaintiff's right to prove it, if she could, and we are to take it, for the purposes of this investigation, that she could have proved it. . . . . If the plaintiff could have established this as a custom, her case would, on this point, have been clear of difficulty, for the testimony was that she had tendered the premium, for the non-payment of which the forfeiture was claimed, once, and perhaps twice, within thirty days after it was due by the terms of the policy. We do not know whether there is, or is not, such a custom. That is not our question at this time; the plaintiff offered to prove it, and the offered testimony should have been admitted, in our opinion. This error, therefore, is sustained.

There must be no cast of management or trickery to entrap the party into a forfeiture. If the strictness in this case was the result of a desire to wind up business (and we learn the company did not exist long thereafter), and it was adopted to avoid a return of premiums, the least which can be said of it is, that it was a most discreditable transaction. We do not know how this was. At the same time it is singular that absolute strictness should be required in paying premiums, if the company had it in contemplation to cease insuring and to return the premiums to parties who had regularly paid them, as they would be obliged to do. There is, undoubtedly, a comity, at least, extended to all insurers in regard to the matter of paying premiums. No company would be worthy to receive the countenance of the public which would establish a practice that would, for every little dereliction, forfeit the policies of the insured, even if it had the power.

We think the learned judge erred in awarding a non-suit, as well as in rejecting the proposed testimony, and that the non-suit must be set aside, and a *procedendo* awarded; which is done accordingly. (11 P. F. Smith, 107.)



If a life policy could continue without payment of premium, it could not, in the District Court, begin without such payment, if made a condition precedent. William B. Collins, a resident of the State of Delaware, had negotiated through Andrew Manship, general agent for that State, for an insurance upon himself and wife in the Asbury Life Insurance Company of New York. Collins, by agreement, deferred payment of premium "until the fall." November 6, 1868, a letter was received with the policy by a resident of the same village as Collins, from the general agent, who instructed the party addressed not to deliver the policy until the premium was paid. Next day the wife died, when the husband sent a check to Manship, who returned it. At the first trial of the case the plaintiff alleged that the policy was not delivered according to its terms, in order to pass the premium, and a verdict was rendered by the jury for \$1,500 in favor of the plaintiff. Then, after another trial,—

Hare, P. J.: . . . . . The policy never ceased to be in the custody of the defendants. . . . . We see no ground on which the non-suit can be taken off. He was cautioned that the policy would not be effective until the premium was paid. (7 Phila., 201.)

With the approach of the annual meeting in May, 1869, of the Corporation for the Relief of the Widows and Children of Clergymen in the Communion of the Protestant Episcopal Church in the Commonwealth of Pennsylvania, closed a century of assured benevolence carried out with annuity and life insurance methods. This occasion was commemorated by an Historical Sketch of the Corporation, written by John William Wallace—pre-revolutionary and post-revolutionary—in which incidents, persons and processes were grouped. Looking back to the beginning day in the town of Philadelphia, in the Province of Pennsylvania, Thomas and Richard Penn, "true and absolute proprietaries," the reviewer saw that,—

The list of our earlier members discloses them all; and shows that there were few persons eminent in such history [the social history of the Colonies and the Republic] in either of the three Provinces or States [Pennsylvania, New Jersey and New York,] who were not members of this Society, if members of the Church at all. Some of them were "leaders of the people by their counsels"; and some of them "rich men, furnished with ability, living peaceably in their habitations." Some have left a name behind them, "that their praises might be reported"; and some have now "no memorial," and are "perished, as though they had never been"—but all alike were "honored in their generation, and the glory of their times."

In the hundred years which have passed since the original Society was incorporated, the roll presents the names of near 250 members. Many of them have performed, for years, great, laborious, and responsible service. But not one, that I have heard of, has ever asked or has ever been willing to receive one cent of compensation; and, by a rule of the Society, reciting this honorable fact, it is now ordained that no member, for any service rendered, ever shall.

The Society has proved of signal benefit in the cases of numerous families of the clergy departed this life. They have invariably received all that their fathers or husbands contracted for. In the earlier history of the body, its contracts, as we have noted, were based upon a scheme so much more for the interests of the clergy who should first come upon the fund than of the fund itself, that nothing but accidental facts and the fact that the Society was continually asking and continually receiving donations, saved it from disaster. But even then the families of the clergy subscribing received great additions from the surplus.

Resting upon a *class* of lives of the highest longevity, conducting in *wisdom* its financial part, guided by the best good will, the Corporation

excelled its computations and anticipations, and chiefly because it had provided, after its first trials, for exigency rather than pre-calculated success. It had *earned* the capacity to make gratuities far beyond the measure of its prescribed obligations. At the annual meeting in May, 1868, the Acting committee, Peter McCall, chairman, submitted a proposition designed as a suitable memorial with which to mark the opening of the second century of the Corporation. Mr. Wallace cited as follows:—

The pecuniary prosperity of the Corporation continues to increase. After payment of \$200 legal obligations, \$2,205 gratuitous bounty, and of all expenses, the net surplus added to our assets [by year's account] is \$13,503.34.

The amount of income derived from the payment of premiums on policies of endowment and a quintuple annuity is only \$1,283.20, showing how little we now depend upon that source of revenue.

Our first duty is to do our utmost within reasonable and legal limits for the benefit of the clergy now connected with us, by lightening of their annual burdens.

In the present state of our annual surplus the amount of the *legal* claim under the policy becomes a less and less important subject of consideration. The wants of the widow and orphans of the clergyman are now the first element in our adjustment of the gratuitous payment on a death claim.

The committee, therefore, recommended the adoption of the following resolutions:—

*Resolved*, That the treasurer be, and he is hereby instructed, on receiving the premiums on policies of endowments, payable during the year, beginning this day, to return to such of the holders thereof, as will then have made two consecutive payments, 5 per cent. of the premium then payable; and to such of the holders as will then have made three consecutive payments, 10 per cent.:—

4 consecutive payments,	20 per cent.
5 " "	25 "
6 " "	30 "
7 " "	35 "
8 " "	40 "
9 " "	45 "
10 " "	50 "
11 " "	55 "
12 " "	60 "
13 " "	65 "
14 " "	70 "
15 " "	75 "

*Resolved*, That the Corporation hereby authorizes the acting committee, at any time after two annual payments shall have been made, on a policy of endowment, to accept the surrender thereof while the policy remains in force, and to issue to the holder in lieu thereof an equivalent paid-up policy, such as would be purchased by a sum not exceeding in amount the sum of the premiums theretofore paid, together with the net interest earned by the Corporation upon them.

*Resolved*, That the acting committee is hereby authorized to issue, on behalf of the Corporation, policies of endowment on the ten-year plan, adopting in their calculations of the annual premiums, the tables of rates lately issued by the Mutual Life Insurance Company of New York, and herewith submitted.

And on motion, the same were, after consideration, unanimously adopted.

FISCAL CONDITION OF THE CORPORATION,  
May, 1869.

The assets consist of—

	Par.	Market Value.
Real estate, . . . . .	\$ 2,000 00	\$ 2,000 00
Ground rents, . . . . .	72,763 82	86,006 28
State of Pennsylvania loans, . . . . .	85,000 00	90,100 00
City of Philadelphia loans, . . . . .	58,300 00	57,721 00
United States loans, . . . . .	38,500 00	45,330 00
Bonds and mortgages, . . . . .	16,600 00	16,600 00
Cash, . . . . .	532 18	532 18
	<hr/> \$273,696 00	<hr/> \$298,289 46

The nominal amount of all outstanding engagements is—

Policies of annuitants, . . . . .	\$ 6,000 00	
Policies of endowments, . . . . .	77,715 07	
Deposits on interest, . . . . .	<u>3,923 40</u>	\$87,638 47
The number of annuitants in expectancy are, . . . . .		5
“ “ endowments in expectancy, . . . . .		58
“ “ deposits on interest, . . . . .		33
The amount of legal claims paid during the year 1868-9, . . . . .	\$1,566 96	
The amount of gratuities paid during the same year, being those voted at annual meeting, May 5, 1868, . . . . .	<u>4,100 00</u>	\$5,666 96

In the official list for 1869, Horace Binney was the oldest Member, having been elected in 1831. John William Wallace was elected in 1861. The new Members elected in 1869 were Rev. Th. F. Davies and Edwin M. Lewis;—actuary and treasurer James Somers Smith, secretary James M. Aertsen.

At this close of a century of the American life annuity, apart from the earlier practice of the Presbyterian corporation, two thousand million dollars were under contract in the United States upon the contingency of life, and two hundred and fifty million dollars of assets had been accumulated in about 130 companies. December 31, 1869, sixty-nine life companies authorized to transact business in New York, had \$1,836,617,819 of insurances in force and \$227,767,026 of assets. Other-State life companies authorized in Pennsylvania paid taxes on \$4,751,000 of premiums received in the State in year ended November 30, 1869.

For the year ended December 31, 1869, the sixth quinquennial bonus of the Girard Life was declared upon policies outstanding three years or more.

The multitudinous attempts to establish life insurance companies throughout the country had not yet received a check, and the list of organizations having authorized agencies in Philadelphia in 1870 was as follows:—

COMPANIES.	AGENTS.
Ætna, Conn., . . . . .	C. H. Brush,
American Tontine, N. Y., . . . . .	Bates & Uhler.
Amicable Mutual, N. Y., . . . . .	J. Howe Adams.
Anchor, N. J., . . . . .	Edward A. Hentz.
Asbury, N. Y., . . . . .	J. M. Longacre.
Atlantic, N. Y., . . . . .	W. D. Huntley.
Berkshire, Mass., . . . . .	W. H. Graves.
Brooklyn, N. Y., . . . . .	Shelden & Floyd.
Charter Oak, Conn., . . . . .	Hilliard & Brother.
Commonwealth, N. Y., . . . . .	E. R. Helmbold
Connecticut General, Conn., } . . . . .	W. H. Tilden.
Connecticut Mutual, “ } . . . . .	
Continental, N. Y., . . . . .	Winter & Jewell.
Continental, Conn., . . . . .	A. & I. S. Corbine.
Craftsmen's, N. Y., . . . . .	Edward S. Keeler.
Delaware Mutual, Del., . . . . .	George F. Turner.
Economical, Mutual, R. I., . . . . .	F. S. Belden.
Empire Mutual, N. Y., . . . . .	Weeks & Glover.
Equitable, N. Y., . . . . .	Betts & Register.
Excelsior, N. Y., . . . . .	J. H. Hilliard.
Germania, N. Y., . . . . .	Joseph M. Reichard.
Globe Mutual, N. Y., . . . . .	Johns Bros.
Great Western, N. Y., . . . . .	E. E. Simpson.



COMPANIES.	AGENTS.
Guardian Mutual, N. Y., . . . . .	Smith, Roberts & Hollinshead.
Hahnemann, Ohio, . . . . .	J. A. Cloud.
Hartford Life and Annuity, Conn., . . . . .	Kingsbury & Kellogg.
Home, N. Y., . . . . .	J. R. Muffy.
Homoeopathic Mutual, N. Y., . . . . .	W. F. Anderson.
Hope Mutual, N. Y., . . . . .	Whiton and Tredick.
John Hancock, Mass., . . . . .	Cole & Stroud.
International, N. J., . . . . .	
Knickerbocker, N. Y., . . . . .	Duy & Woods.
Manhattan, N. Y., . . . . .	James B. Carr.
Massachusetts Mutual, Mass., . . . . .	John Knox Marshall.
Metropolitan, N. Y., . . . . .	Corbin, Gaffney & Corbin.
Mutual, N. Y., . . . . .	F. R. Starr.
Mutual Benefit, N. J., . . . . .	E. V. Machette.
Mutual Protection, N. Y., . . . . .	Geisseinger & Cottrell.
National, of the United States, D. C., . . . . .	E. W. Clark & Co.
National, N. Y., . . . . .	J. A. Coleman.
National Capitol, D. C., . . . . .	Peddle & Widdifield.
New England Mutual, Mass., . . . . .	Stroud, Marston & Co.
New Jersey Mutual, N. J., . . . . .	Parvin & Co.
New York, N. Y., . . . . .	T. J. Lancaster.
North America, N. Y., . . . . .	Nelson F. Evans.
Northwestern Mutual, Wis., . . . . .	Percival & Higbee.
Phoenix Mutual, Conn., . . . . .	M. T. Gosnell.
St. Louis Mutual, Mo., . . . . .	Warren P. Adams.
Security, N. Y., . . . . .	Ezra Willits.
Travelers, Conn., . . . . .	W. W. Allen.
Union Mutual, Me., . . . . .	D. S. Gloninger, M.D.
United States, N. Y., . . . . .	Ives & Platt.
Universal, N. Y., . . . . .	Westcott & Hunter.
Washington, N. Y., . . . . .	A. F. Campbell.
Widows and Orphans', N. Y., . . . . .	L. & G. E. Wagner.
World Mutual, N. Y., . . . . .	J. L. Jennings.

Besides these, there were the life departments of the Royal and the Liverpool and London and Globe. A Provident Royal, of London, appeared for a brief time. For the tax year ended in 1870, the life premiums of the agencies, as taxed, increased over 1869, \$235,510, while the fire premiums of the agencies, as taxed, decreased \$237,084.

By the United States census, the population of the city in 1870 was 674,022—divided as follows: 320,379 males, 353,643 females; 490,398 native born, 183,624 foreign born; whites 651,875, colored 22,147. Number of deaths in 1870 was 16,750, against 14,786 in 1869.

1870.			
	Population.	Deaths.	Per cent.
Males, . . . . .	320,379	8,787	2.743
Females, . . . . .	353,643	7,963	2.252
	674,022	16,750	2.485
<i>Adults.</i> {	Males, . . . . . 173,676	4,084	2.352
	Females, . . . . . 149,976	3,841	2.561
	323,652	7,925	2.449
<i>Minors.</i> {	Males, . . . . . 146,703	4,703	3.206
	Females, . . . . . 203,667	4,122	2.023
	350,370	8,825	2.519

The city population in 1870 for the respective ages was not tabulated, but the total population for age 21 and upwards was given as 323,652, which was

a decrease in the proportion of adult lives as compared with the better enumeration of 1860. We adjust the age populations of 1870 upon the basis of the ratios of 1860, and apportion the age death rates accordingly. Taking the measure of adult lives according to the figures given for 1870, the death rates for adult lives would be somewhat increased, and those of the minor lives somewhat decreased, and there would be a somewhat greater divergence from the American Experience mortality.

1870.

AGES.	Living.	Dying.	Death rate per cent.	Combined Exp.	American Exp.
Under 5 years, . . . . .	94,108	7,432	7.897	. . .	. . .
5 and under 10, . . . . .	78,584	644	0.819	. . .	. . .
10 to 15, . . . . .	66,083	300	0.454	0.682	0.754
15 to 20, . . . . .	65,656	449	0.684	0.707	0.769
20 to 30, . . . . .	137,992	1,632	1.110	0.774	0.805
30 to 40, . . . . .	103,687	1,491	1.438	0.921	0.893
40 to 50, . . . . .	63,952	1,269	1.984	1.222	1.114
50 to 60, . . . . .	35,122	1,065	3.032	2.120	1.831
60 to 70, . . . . .	19,249	1,027	5.335	4.242	3.875
70 to 80, . . . . .	7,363	895	12.155	8.883	8.748
80 to 90, . . . . .	1,933	422	21.831	17.952	19.707
90 and above, . . . . .	293	124	42.321	38.254	52.027
	674,022	16,750	2.485	. . .	. . .

Subsequently, under the direction of the Provident Life and Trust, Pliny E. Chase constructed tables to compare the special mortality of the Society of Friends with the mortality of the general population of the city for the period from 1800 to 1869. The Philadelphia table (100,000 at age 0) was "based upon records of 425,502 interments, 265,590 births, and seven successive decennial census enumerations; the Friends' table (10,000 at age 0) upon records of 14,666 interments, 4,264 births, and eight enumerations." These two tabulations compare with the American Experience as follows, as to the percentages of mortality in the decennial years:—

Year.	Philadelphia.	Friends'.	American Exp.
10, . . . . .	0.588	0.425	0.749
20, . . . . .	0.710	0.690	0.781
30, . . . . .	1.250	1.148	0.843
40, . . . . .	1.615	1.332	0.979
50, . . . . .	2.090	1.495	1.378
60, . . . . .	3.025	2.445	2.669
70, . . . . .	5.322	4.894	6.199
80, . . . . .	10.120	9.942	14.447
90, . . . . .	20.310	17.493	45.455

By both of Mr. Chase's tables the greatest vitality was at age 12; the equation of life (half of the births dead) was, Philadelphia table, 33.44 years, Friends' table 48.08 years. Mr. Chase's rule for determining the expectation of life, styled General Expectation, was:  $A = \text{average years lived from birth by}$

those who die before the year of equation of life;  $P$  = average years lived in their lives by those who die after the equation of life from birth, and  $\frac{A+P}{2}$  = General Expectation.

We group the survivors of the Philadelphia table in the following terms of years with the deaths occurring in such terms. Birth-year of the table being 0, the second year of age is therefore 1 of the table, and "0, 1, 2, 3" is what has been designated as under 5 years, and "4 to 8" is 5 to 10 years age —*i. e.* five years, including age 5 and age 9.

Age Groups.	Aggregate of survivorships in age groups.	Dying.	Percentage of dying.
0, 1, 2, 3, . . . . .	326,379	32,977	10.107
4 to 8, . . . . .	320,211	5,490	1.715
9 to 13, . . . . .	304,538	1,384	0.454
14 to 18, . . . . .	297,884	1,561	0.524
19 to 23, . . . . .	562,902	5,574	0.990
29 to 33, . . . . .	499,169	7,012	1.405
39 to 43, . . . . .	425,802	7,689	1.806
49 to 53, . . . . .	346,087	8,395	2.426
59 to 63, . . . . .	256,625	9,742	3.796
69 to 73, . . . . .	152,815	10,698	7.001
79 to 83, . . . . .	57,368	7,306	12.735
89 to 93, . . . . .	8,799	2,012	22.867
99 to 113, . . . . .	731	150	20.520



## CHAPTER IX.

*Advent of Coöperativism—Misunderstanding between Solicitor and Applicant—Beginning of the Great Life Insurance Revulsion—The Impaired Great Western Life, of New York, and its Extermination—The Problem of Recuperation—The United Security Life and Trust reinsures its Risks—Progress of the Contribution Plan of Dividend—A New Tontinism—The Tontine Investment Policy of the New York Life and its Estimated Benefits—Death of John F. James—The Homestead Life Insurance Company of Philadelphia—The Interest Factor in Life Insurance—The National Insurance Convention decides on Four and a Half per Cent. Assumption—The Decline from 1871—The Provident Life and Trust completes its Cash Capital—The General Agency of The Mutual Life, of New York, 1872—Assignment irrespective of Interest—Charter Supplement as to Elections for Trustees—As to Application of Act of March 31, 1860—The Occurrence of the Highest Ratio of Small-Pox Fatality—The Outstanding Insurances in Philadelphia Companies, 1873—The Net Valuation of Policies by the Pennsylvania Insurance Department—New Office Buildings—Authorizations of The Mutual Life and United States Life to hold in fee Real Estate in Philadelphia—Interrogations in Medical Examinations—The Good Faith of the Applicant in answering and the Competency of the Medical Examination—The Answers as Warranties—An Assignment Complete—An Assignment Incomplete—The Pennsylvania Life Business in 1873—Business of Philadelphia Companies and Other-State Companies—Specific Data of Philadelphia Companies—The "Industrial" Insurance of the Missouri Valley Life—Death with Reëxamination pending for Renewal of Insurance—What is Legal "Habitual Drunkenness?"—The Hand-in-Hand Mutual Life passing out—The Reaction continues—Purchase of a Capital Stock—Transfer and Absorption—The Metropolitan Life Insurance Company of New York—Its Weekly Premiums—Impairment of the Capital Stock of the American Life—Paid-up Policy Substitution—A Question of Identity and Registry of Baptism—Warranty, Contestability, and "Insurance insures"—Security in lieu of Tax Payment pending Court Decision—Withdrawals from the State and Reinsurances—Sales of Policies and Endowment Acceleration—The American Life reinsures its South-western Risks—New Experimentation—Physiology vs. Age, Age Insurance vs. Life Insurance—Technical Expectation of Life not Individual Expectation—Dr. Lambert on Biometry—The Age Insurance of the Provident Savings Life Assurance Society of New York—The Dreaded Net Value Liability—An Average Amount of Claims paid—The Presbyterian Annuity and Life Insurance Company—The American Popular Life gives Figures—The New York Collapses—New Contingent Endowment Policy of the Penn Mutual—Adjudications on Policies suspended or lapsed by the Civil War—Massachusetts Statute Interpretation—Policy effected by Non-dependent Son on Life of his Father, Insurable Interest—Some other Litigations—Measure of Damages for Breach of Contract by Insurer—Life Insurance Rates of the Episcopal Corporation—Coöperative Societies and Assessmentism—Transferring Risks of the North American Mutual Life, of Philadelphia, to the Penn Mutual—More New York Companies closing up—Indictments for Perjury, Suit to recover Money—The American Popular Life disclosed—State Department Examination of Philadelphia Life Companies—The Thickening Infamy—About the New Jersey Mutual, the Hope Mutual and the Continental, of New York, and the Life Association of America—A Coöperative stops—Forfeiture of "Policy" by Non-payment of Assessment—Henry W. Smith—A Bill in Equity dismissed—The Retrograde continues. (1870-1877.)*

WHILE the premium-note method was now lessening in practice, and beginning to be abandoned by some of its advocates, a supposed cheap substitute for life insurance was starting up, somewhat resembling assessment fire insurance, except that in its essential character it was but the collector of a death benefit for each deceased member of a body of associates—each of the living paying then a certain small sum, say one dollar, with addition for expenses. In instances, however, there was a small annual payment besides the mortuary assessments, and the projects were beginning to venture so far as to assume to guarantee the payment of a specific sum at death. One of the kind assuming life insurance responsibility, entitled the Mutual Protection Life Insurance Company, began in the city July 7, 1870, and others appeared in the city before and after its collapse, though the rural districts were generally the selected fields for the operation of such devices. As the formation of new life insurance companies ceased, the assessment or coöperative societies multiplied.

As life companies had multiplied, new business was prosecuted in the field as an urgency, and some of the worst features of trade rivalry had been fostered by the conflicts of competition. The representations of the solicitor and the understanding of the applicant now and then became causes of contention and producers of animosity. Often, however, the real character of such grounds of difference was quite at variance with the fancied nature of it, and of such misunderstanding the following case in the District Court affords an illustration:—

Thayer, J. [Rule for a new trial.] The plaintiff asserted that the agent promised him an endowment policy which, after two payments of premium, would be non-forfeitable. The application did not contain any allusion to a non-forfeitable policy. On the policy for \$5,000 being executed during his absence, he, on his return, complained that it was not worded as he intended, but the general agent said he would make it all right. The application was dated September 20, 1865, and the policy September 22, 1865. In 1867, the plaintiff finding it inconvenient to pay premiums, renewed his demand for a non-forfeitable policy, which the company refused.

On the trial, the jury were instructed that there was evidence the agent had no right to make such an agreement, while there was no evidence that the agreement was made. Contracts could not be altered by any parol statement of the agent. As to refunding of premiums paid, if with reasonable diligence he had demanded the same as having been paid under mistake, he would be entitled to such return, [but this he did not do—suit not being brought until after second payment in 1867.] The jury were also instructed that if the plaintiff expected the agent was going to obtain for him a non-forfeitable policy, he was justified in waiting a reasonable time before demanding return of premium. If he did not offer to return the policy, and inform the company of his dissatisfaction within a reasonable time, he could not recover. The company having taken the risk for a time, and he an insured person retaining the policy, “he could not afterwards be allowed to return to his original position and claim a return of the premium upon their refusal of a policy of a different kind.” The jury were also told that as the plaintiff had paid the second premium without objection, it was a strong circumstance in favor of his having accepted the policy as it was. “We think these instructions correctly defined the position. The jury saw fit to find a verdict for the plaintiff.” It became apparent that it was only adverse circumstances rendering payment of premiums inconvenient that made him wish to repudiate the contract. “To allow him, under these circumstances, to repudiate the contract and to recover back the premiums, would give him the benefit of the contract during his own pleasure, and to permit him to disaffirm it whenever he might choose to do so, and recover back the consideration which had induced the defendants to enter into it.” . . . . . “Originally he might have abandoned the contract and treated it as a nullity, and claimed the consideration.” But having elected to treat the policy as a subsisting contract, it was too late for him to adopt the other course. “Men cannot, by



their own conduct and negligence, impose burthens upon those with whom they deal, and then claim to stand in the position of persons who, in the assertion of their own rights, have been mindful of their obligations to others." Rule absolute. (8 Phila., 6.)

The action of Miller, the superintendent of the New York insurance department, in respect to the Great Western Life Insurance Company, precipitated a life insurance panic and hastened the collapse of struggling experiments. The Great Western was a weak office, and there was a great probability that the superintendent's "reason to suspect that the annual statements of this company were not strictly correct" was not without foundation. An examination being made in November, the net value of the outstanding insurances was computed at \$505,500; total liabilities \$538,770, apart from \$115,000 capital stock. Gross asset figures were \$595,812, and these included \$229,760 due from agents. Reducing the asset figures \$83,160—certainly not an undue reduction—the non-capital liabilities exceeded the assets \$26,118; in other words, the reserve was impaired about 5 per cent. Upon petition of the attorney general, the court, Cardoza, J., appointed F. M. Bixby receiver, and the superintendent, in his succeeding annual report, announced that "from general information derived from him [Bixby] it is feared that the assets of the company will pay but a small percentage upon its liabilities, probably not exceeding twenty-five to thirty per cent."\* The vice-president of the Great Western was accused of "malpractices and the misapplication of funds."

So the unestablished life companies were now to avoid the expense of new business, to endeavor to recuperate upon the insurance already secured, or to reinsure their risks and retire, or else to await, while forcing business, the coming of the receiver—the last a strong incentive to malpractice. From its inability to make headway, the United Security Life Insurance and Trust Company had, before the close of 1870, been arranging to reinsure its risks in the Penn Mutual Life, which was consummated in December.

Financial equity to the policyholder, or financial gain to the insured, according to age of policy, became one of the elements of the new plans arising to stimulate public appreciation as the business began to lag. Further, dividend ideas were so much in the ascendant, were found so available as successful inducement by the solicitor, that acceptance of the insurance was largely conditioned on what accrued apart from the insurance. The contribution plan of dividend distribution, with its specific account of each policy's share of the general gain from vitality, interest earning and excess loading, after paying death costs, expenses, and providing the due reservation, served better than the percentage plan to define the gainful relations of the policy in

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\* About this time the New York Evening Post made these remarks:—

"On discovering that a life insurance company is not strong enough to make its business safe, the State department has its choice of two modes of procedure. It may either bring the company into court and have a receiver appointed, or it may require the company to reinsure all its risks with some approved company and retire from business. In the former case the assets of the company are not unlikely to be seriously reduced by the legal fees and costs incurred, and in some conspicuous instances of the kind large sums have disappeared almost magically. Certainly policyholders in general are not likely to have much confidence that their trusts will be managed with rigid economy for their benefit when in the hands of our New York courts."



respect to time and accumulation. Up to 1870 the percentage scrip dividends of the Penn Mutual Life had averaged 50 per cent. of the premiums, but a supplement to its charter, approved March 11, 1870, contained as the third part of its preamble and its third section the following:—

*And whereas* experience has proved that the present system of declaring dividends is unjust to the insured:

SEC. 3. That in lieu of the manner of returning the surplus to insured members as directed by section fourteenth of the original charter, it shall and may be lawful for said company to return the same either in cash or in scrip, or by reversionary addition to the policies, and in such sums as may express the equitable proportion of the aggregate surplus to which each member is entitled, according to the actual value of the premiums paid, which sums shall be credited to the insured, or received in reduction of premiums as their annual premiums mature.

Defined surrender value providing for the withdrawing policyholder directed attention to the *continuing* policyholder, as such. In whatever way part of the premium should be returned, or the accruments distributed, apart from liquidation of policy at maturity, was dividend in the life insurance respect. To deferred dividends, or dividends solely for account of policyholders continuing through a named term of years, or, in other words, with contributions to surplus increased by withholding all payments to *survivors* (including surrender value) within the period elected, was applied the name Tontine—a New York movement starting in 1867; and such policies appearing, they found favor with those who looked for a combination of investment and insurance. As their results were dependent upon contingencies, and not fixed in amount like the policy sum, they were supposed to have a somewhat speculative aspect, but in this respect were not distinct from other contingent life-insurance dividends.\*

\* The New York Life issued a Tontine Investment Policy, with results for different tontine periods estimated as follows, according to the cash, insurance, or annuity benefits the insured desired to secure:—

Life policy, age 40, \$10,000; annual premium \$313.

Tontine Period.  
(Years.)

*First Benefit:*

10	Annuity for life combined with dividend, . . . . .	\$ 227 90
15	" " " " " " . . . . .	546 30
20	" " " " " " . . . . .	1,160 10

(Thus, insurance and premium-paying being continued, at the end of 15 years the annuity would pay the premium and leave a surplus for income.)

*Second Benefit:*

Accumulated surplus withdrawn in cash.

10	. . . . .	56 per cent. of premiums returned.
15	. . . . .	101 " " " "
20	. . . . .	150 " " " "

*Third Benefit:*

Surrender of policy to company.

10	. . . . .	107 per cent. of premiums returned.
15	. . . . .	154 " " " "
20	. . . . .	207 " " " "

*Fourth Benefit:*

Paid-up insurance.

10	. . . . .	\$ 7,500 00
15	. . . . .	15,000 00
20	. . . . .	23,500 00

*Fifth Benefit:*

Surrender of policy and purchase of annuity for life.

10	. . . . .	\$ 286 20
15	. . . . .	699 50
20	. . . . .	1,450 00

Net value of a policy for \$10,000 issued at age 40 was, by Combined Experience, 4 per cent., at end of tenth year, \$1,629.70; at end of fifteenth year, \$2,557.00; at end of twentieth year, \$3,528.40. The net single premium to insure \$23,500 at age 60, Combined Experience, 4 per cent., is \$14,086.60. Total amount of \$313 per annum, compounded at 4 per cent. for 20 years, is \$9,693.61.

John F. James, actuary and treasurer of the Girard Life Insurance Company, died early in 1871, his death but little separated in time from that of Augustus De Morgan in London. If not of equal mathematical scope, analytic and constructive, to Sears C. Walker and Joseph Roberts, John F. James was a life insurance mathematician of the highest rank. His reticent habits kept him from public expression; the Girard was not an office to call his skill and capacity into play, and these were illustrated on very few occasions. He was the first to elucidate the withdrawing policyholder as an augmentation of the death ratio in life insurance; such withdrawal being as a "selection against the company."

In April of this year an experiment called the Homestead Life Insurance Company, projected in 1870 to combine the features of a building association with endowment and life insurance—Lawrence Myers, president, William M. Reilly, vice-president—was relinquished.

An English reason for the success of American life insurance companies was as follows: "They make double the rate of interest that we do, and therein lies the great mystery of their onward march—of their wealth and solidity." But the majority of the American life offices of the time were not "solid," despite of the existence of a high interest factor, which could be really effective only when an office had established itself in an accumulative position. This source of strength was, however, declining, with reaction from the decline a problem of the future. Success in funding a new Federal loan at 5 per cent., as a sign of decrease in the productive value of capital, was a signal for life insurers, if not to recast, at least to reëxamine the investment assumptions, as the fate of a company might depend upon a one per cent. more of interest earning. Such financial position, while not an argument against the fact that the interest rate is a fluctuating and not a fixed quantity, yet arrayed itself against a 6 per cent. assumption of the recent joint-stock life insurers—bungling and fraudulent operations alike seek to set off future recourse against present obligation.—In October, 1871, the National Insurance Convention, composed of State insurance officials, meeting in New York, canvassed 4, 4½, 5, or 6 per cent. as State standard for valuation of policies, and the decision was in favor of 4½ per cent. as being, at least for the next generation, practicable and efficient; as neither too high for realization, nor low enough to impede and obstruct the business with the burden of exaggerated reserving. The conclusion arrived at was the correct one.

Though the year 1871 was pervaded with portents of disaster to the life interest—even the strongest offices becoming affected by the prevailing suspicion—yet the general organization was equal to the struggle which had been brought upon it, and the companies, as a whole, closed the year with a net gain of the amount of life insurance in force, as compared with the beginning, showing ability as yet to make the issues of new policies more than supply the places of the lapsed, surrendered and normally terminating policies. This year the \$500,000 capital of the Provident was all paid up by the payment of the remaining subscription of \$114,822.54. Total of capital directly paid in

by shareholders \$434,000, the remaining \$66,000 being surplus of the trust department capitalized. The taxes paid on premiums by Pennsylvania life agencies in 1871 were \$196,206, against \$183,891 in 1870, but next year the amount began to decrease.

In February, 1872, F. Ratchford Starr resigned as general agent of The Mutual Life Insurance Company of New York, and so ended his conspicuous and varied connection with Philadelphia insurance. It was the withdrawal of one who was held in high esteem. He was succeeded by Frederick W. Vanuxem as general agent for Pennsylvania and Delaware. Mr. Vanuxem had been local agent, and he associated with him in the general agency Edward P. Bates and William H. Lambert, who had been connected with the agency for seven years. The insurances written through this agency in Pennsylvania now reached five million dollars per annum. A suitable and imposing granite structure being designed for the official domicile of this agency, the requisite legislation was obtained in an act which authorized the company to hold and convey real estate in the cities of Philadelphia and Pittsburgh of a value not exceeding \$2,000,000. The site selected for the Philadelphia building of The Mutual Life was at the north-west corner of Chestnut and Tenth streets, whereon stood the old Keene mansion, long familiar to Philadelphians; dimensions of the lot 58 by 178 feet. This property was purchased for \$165,000.

In 1868 the following assignment had been made by Jerome Smith, of the firm of W. A. McCann & Co.:—

PHILADELPHIA, September 19, 1868.

For value received, the receipt of which is acknowledged, I hereby assign, transfer and set over absolutely unto W. Cunningham & Sons and assigns, policy No. 88,435, to which this is annexed, issued on my life by the Connecticut Mutual Life Ins. Co. of Hartford, Connecticut, and any money which may at any time hereafter come to be payable by reason thereof, and all and singular the remedies in law, equity or otherwise for the recovery thereof.

In a few months subsequent to this assignment the assignor died; the policy subsisting, W. A. McCann & Co. were, in September, 1868, about to establish themselves in Vera Cruz, and it had been agreed between this firm and W. Cunningham & Sons that the two parties should purchase and consign goods to each other from the United States and Mexico and Central America respectively, and divide the profits—W. Cunningham & Sons to furnish the other party with cash and letters of credit, etc.

Policy being paid to the assignees, an action of assumpsit was brought, March 31, 1869, by Anne Smith, administratrix of Jerome Smith, deceased, to recover the moneys so paid. The verdict at the trial in the District Court was for the plaintiff for \$3,700, and the defendants took a writ of error.

The opinion of the Supreme Court was delivered February 8, 1872, by Sharswood, J.:—

We are of opinion that the evidence offered by the plaintiff below, and received by the court under exceptions by the defendants, which form the subject of the first three specifications of error, was irrelevant and inadmissible. More than that, it was calculated to distract and divert the attention of the jury from the only true point in issue, which was, whether the assignment of the policy on the life of Jerome Smith in the Connecticut Mutual Life Insurance Company, No. 88,435, to the defendants was absolute, or as collateral security for advances by the defendants. . . . .



The next six specifications of error, which are to the answers to the court below to the points of the plaintiff and defendants, may all be resolved into one question, whether there was any sufficient evidence to submit to the jury upon which they could find that the assignment of the policy No. 88,435 was as a collateral security for present or future indebtedness by the assignor to the assignees. The defendants may have had such an interest in the life insured under the contract of September 1, 1868, as would have entitled them to insure his life in their own names. That, however, might have been a question. But Jerome Smith's interest in his own life was unquestionable, and if he was willing to insure himself with their money and then assign the policy to them, there is no principle of law which can prevent such a transaction. Indeed, this is not controverted. Now, not only was the assignment in question on the face of it simple and absolute, but it was specially expressed so to be under the hand and seal of Jerome Smith himself. "I hereby assign, transfer and set over absolutely," is its language. Mr. Tilden, the agent of the insurance company, by whom the assignment was drawn and witnessed, testified: "Jerome Smith said it was to be an absolute and unconditional assignment." Two other witnesses testify to other declarations by him of the same import, at or about the same time. Mr. Morgan said: "There was then a further conversation about a policy to be taken out for the benefit of the firm, and as to whether there would be any difficulty in their taking out a policy which would secure them the amount of it in case of his death, whether they had any interest or not. Mr. Smith said 'they could take out a policy for whatever amount they liked if they would pay the premium.' And again: 'It was understood that this policy had nothing to do with their advances to Mr. Smith or to the business in Mexico. I heard Mr. Cunningham say this to Mr. Smith.'" Winthrop R. Cunningham, in his deposition, said: "W. T. Cunningham said distinctly to Jerome Smith, that he wanted it clearly understood that in any insurance that he effected for the firm, that if he died, we made the insurance; if he didn't, we lost the premium. I remember these words; Jerome Smith fully assented to this." And again: "It was clearly understood and agreed upon between Mr. Smith and W. Cunningham & Sons, that it was to be solely for the benefit of W. Cunningham & Sons, free from any claim of any kind." The testimony of these witnesses was in support of what appeared on the face of the writing. On the other hand, what is set up to impeach the writing thus sustained? First, the testimony of the plaintiff to a declaration by one of the defendants, after the death of Smith, that they had taken out the policy to secure them against losses, and second, the testimony of Henry K. Smith, a son of the plaintiff, that he had overheard the same conversation, and that Mr. Cunningham said "that they had lost the policy that they expected would cover all the expenses"; and again: "that the one taken out to secure them was lost." It may be that there was a time when this would have been considered a *scintilla* of evidence, sufficient to justify the submission of the case to the jury, but that doctrine is now exploded. (*Howard Express Co. vs. Wile*, 14 P. F. Smith, 201.) It was evidently insufficient to authorize the jury to draw the inference that the assignment was other than absolute, and the question ought not therefore to have been submitted to them. It was a mere loose declaration, in the course of a casual conversation, unaccompanied with any admission of liability, at a time when the declarant supposed that the policy had been lost for want of the payment of the premium in proper time. It could not fairly be intended to mean that the insurance was designed to secure the defendants for advances, but simply to secure them against losses and expenses generally in that business in which they had engaged with Jerome Smith, and on account of which they had insured or wished to insure his life. Under such a contract as they had made with Mr. Smith, they might well look forward to the contingency of losses and expenses other than those which would result from the failure of Smith to refund advances made to him. They contemplated consignments of merchandise to him for sale in Mexico or to the firm of McCann & Co., of which he was to be a member, and such consignments, instead of resulting in profits, might end in losses and expenses which the defendants would have to bear. Upon this, which is the most reasonable interpretation of the language, there was nothing to contradict the absolute character of the assignment.

Judgment reversed, and *venire facias de novo* awarded. (20 P. F. Smith, 450.)

The supplement approved March 11, 1870, to the charter of the Penn Mutual Life was in part the outcome of an actively contested election for trustees, which terminated the administration of President James Traquair. This supplement extended the hours of holding the election from 10 A.M.—12 M., to 10 A.M.—3 P.M., and such supplement declared:—

SEC. 2. That the true intent and meaning of section eighth of said charter is, that [in] the elections for trustees of said company, only such votes as are offered by insured

members in person shall be received and counted; and that the term "insured member," wherever the same occurs throughout the charter or its supplements, shall apply and extend only to the person or persons who by the policy are the payers of the premium, except where a wife holds a policy on the life of her husband, in which case the husband shall be allowed to vote at elections as an insured member.

An incident of the opposition to the administration of the Penn Mutual Life as in authority in 1872, was proceedings begun under the criminal code of March 31, 1860, against two of the trustees, R. Kent and J. H. McBride. The prosecution contending that the act applying to prevent officers, directors, and members of all corporations from making personal gain out of the trade or supplies of a company, and to stop directors or trustees from electing themselves to positions of profit, Mr. Kent, appointed agent at a salary of \$5,000 per annum, and Mr. McBride acting as solicitor on commission, were held in \$500 bail each to answer the charge of misdemeanor. Judge Paxson decided that the defendants were not guilty of the misdemeanor, being officers of the company only as trustees.

With the troubled condition of the life insurance interest and amalgamations of recent companies in progress, the business of the life agencies as a whole began to decline—the new business not preventing slight diminution of amount of Pennsylvania life insurance in force in non-State companies.

In the year 1872 epidemic small-pox reached its highest point in the small-pox mortality experience of the city, the deaths therefrom being 2,585—a death rate of about 3.80 per 1,000 population.

At the beginning of 1873 the amount of insurance in force in the six Philadelphia life companies, viz., the American, the Penn Mutual, the Provident, the North American Mutual, the Girard, and the Hand-in-Hand, was \$73,286,440, being less than 4 per cent. of the total life insurance in force in the United States. The oldest of these organizations and the most recent contrasted as follows:—

	Number of policies in force.	Amount of insurance.
Girard, . . . . .	909	\$2,287,006
*North American Mutual, . . . . .	1,036	2,402,270
Hand-in-Hand, . . . . .	67	97,569

The act of April 4, 1873, establishing a State insurance department, enacted as follows as to duty of State commissioner, with respect to valuation of life policies and impairment of reserve;—actuarial compensation, three cents for each thousand dollars of insurance valued:—

He shall, as soon as practicable, in each year, calculate or cause to be calculated the net value on the thirty-first day of December, of the previous year, of all the policies in force on that day in each life insurance company doing business in this State, organized by authority of this State, and of every other life insurance company doing business in this State that shall fail to furnish him, as hereinafter provided, a certificate of the insurance commissioner of the State by whose authority the company was organized, or by the State in which it may elect to have its policies valued and its deposit made in case the company is chartered by the government of the United States, giving the net value of all policies in force in the company on the thirty-first day of December, of the preceding year, which calculation of the net value of each policy shall be based upon the American Experience Table of Mortality, and four and one-half per cent. interest per annum: *Provided*, That

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\* This company was then successor of a North American Transit Insurance Company.



when any life insurance company shall have a cash capital of not less than five hundred thousand dollars, fully paid in and safely invested, the reserve to provide for the liabilities on all policies of such company not participating in the profits of the company, shall be computed by the American Experience Table of Mortality, with interest at not less than four and a half nor more than six per centum per annum, in the discretion of the commissioner, and with reference to the rates of premium charged by such company; the net value of a policy, at any time, shall be taken to be the single net premium which will, at that time, effect the insurance, less the value at that time of the future net premiums called for by the table of mortality and rate of interest designated.

In case it is found that any life insurance company doing business in this State has not on hand the net value of all its policies in force, after all other debts of the company and claims against it, exclusive of capital stock, have been provided for, it shall be the duty of the insurance commissioner to publish the fact that the then existing condition of the affairs of the company is below the standard of legal safety established by this State, and he shall require the company at once to cease doing new business, and he shall immediately institute proceedings to determine what further shall be done in the case; and it is hereby made the duty of the insurance commissioner, after having determined, as above, the amount of the net value of all the policies in force, to see that the company has that amount in safe legal securities, after all its other debts and claims against it, exclusive of capital stock, have been provided for.

He shall accept the valuations made by the insurance commissioner of the State under whose authority a life insurance company was organized, when such valuations have been properly made on sound and recognized principles and legal basis as above: *Provided*, The company shall furnish to the insurance commissioner of this State, on or before the first day of March, in each and every year, a certificate from the insurance commissioner of such State, setting forth the value, calculated on the data designated above, of all the policies in force in the company on the previous thirty-first day of December, and stating that after all the other debts of the company and claims against it at that time were provided for, the company had, in safe securities, an amount equal to the net value of all its policies in force, and that said company is entitled to do business in its own State; and every life insurance company doing business in this State during the year for which the statement is made, that fails promptly to furnish the certificate aforesaid, shall be required to make full detailed lists of policies and securities to the insurance commissioner of this State, and shall be liable for all charges and expenses consequent upon not having furnished said certificate.

It shall be the duty of the insurance commissioner, after he has notified a life insurance company, organized under authority of this State, to cease doing new business until the net value of its policies in force is equal to that called for by the standard of safety established by the State, at once to cause a rigid examination in regard to all the affairs of such company; in case it shall appear that there is no fraud or gross incompetency or recklessness shown to exist in the management, he may, upon publishing the facts in the case, permit such company to continue in charge of its business for one year: *Provided*, There is, in his opinion, reason to believe that the company may eventually be able to reestablish the legal net value of all its policies in force. At the end of the year named above, he may renew the permission, in case, on examination, he is satisfied that the company is likely to retrieve its affairs.

By an act of April 8, 1873, authority was given to the United States Life Insurance Company of New York to purchase, hold and convey real estate within the cities of Pittsburgh and Philadelphia for the purposes of its business, with like limitations as the act so authorizing The Mutual Life, of New York. Earlier in the year a new iron and brick building, 40 by 60 feet, had been completed for the Provident Life and Trust, of Philadelphia, at No. 108 South Fourth street. June 14, the corner-stone was laid of The Mutual Life building, at Chestnut and Tenth streets, by President Winston.

It became increasingly evident that the character of the life risk depended more upon the truthfulness or accuracy of the applicant's answers respecting his physical condition, disease experience, and heredity, than upon the scrutiny, *per se*, tests (instrumental and otherwise), and measurements of the examining physician.



The following is an illustration of the series of questions asked the applicant by the official medical-examiner—these being somewhat varied in different companies:—

1. Give your full name, ——— present residence, ——— your occupation and employment, ——— Also your former residence, ——— and former occupation, ——— if either has been changed.

2. Has any application for insurance upon your life ever been made to any company upon which a policy has not been granted? ——— Has any unfavorable opinion upon the insurableness of your life ever been given by a physician? ——— In either case, state full particulars. ———

3. Are you now in good health? ——— Do you usually have good health? ———

4. Have you been subject to or had any of the following disorders or diseases: Headaches—severe, frequent or protracted, ——— Loss of consciousness, ——— Dizziness, ——— Fits or convulsions, ——— Paralysis, ——— Delirium tremens, ——— Sunstroke, ——— Appoplexy, ——— Insanity? ———

5. Have you been subject to or had any difficulty with your eyesight, ——— or sense of hearing? ———

6. Has your weight recently increased or diminished? ——— To what extent and how rapidly? ———

7. Have you been subject to or had any of the following disorders or diseases: Habitual cough, ——— Asthma, ——— Bronchitis, ——— Pleurisy, ——— Inflammation of the lungs, ——— Spitting or coughing of blood, ——— Consumption, or any form of trouble referable to the lungs, ——— Shortness of breath? ———

8. Have you been subject to or had palpitation of the heart, ——— difficulty in swallowing, ——— or any other symptoms indicating disease of the heart or neighboring vessels? ———

9. Have you been subject to or had dyspepsia, ——— habitual constipation, ——— chronic diarrhœa, ——— dysentery, ——— bilious, renal, or hepatic colic, ——— hæmorrhoids, or any other disease of the stomach or bowels? ———

10. Have you been subject to or had jaundice, ——— or liver complaint of any form, ——— or yellow fever? ———

11. Have you ever been subject to or had dropsy, ——— swelling of the feet, hands or eyelids, ——— difficulty in urinating, ——— excessive or scanty secretion of the urine, ——— gravel, or any other symptoms pointing to bladder or kidney trouble? ——— Any disease of the genital or urinary organs? ———

12. Have you been subject to or had neuralgia, ——— rheumatism, ——— suppurating glands, or general debility, ——— gout? ———

13. Where the person examined has had inflammatory rheumatism, he will answer the following questions:—

How many attacks.	In what year.	Duration.	How severe.

Was it accompanied in any instance by cough, ——— shortness of breath, ——— pains in the chest, ——— palpitation of the heart? ———

14. Have you been subject to or had eruptions or disease of the skin, ——— cancer, ——— erysipelas, ——— open sores, ——— lumps or swellings of any kind, ——— fistula, ——— varicose veins? ———

15. Are you ruptured? ——— What form? ——— Single or double? ——— Is it reducible? ——— Is a suitable truss worn? ———

16. Have you ever had any malformation, illness or injury, or undergone any surgical operation? ——— If so, state fully its nature, duration, and results ———

17. Have you any predisposition, either hereditary or acquired, to any constitutional disease, as consumption, rheumatism, etc.? ———

18. When were you successfully vaccinated?

19. Describe fully your habit in regard to the personal use of alcoholic or other stimulants, narcotics and tobacco. ——— What has been your habit in such respect through life? ———

20. How long is it since you were attended by a physician, or have professionally consulted one? ——— For what disease? ——— Give the name and residence of that physician, and that of your usual medical adviser.

21. What was the age at death, cause of death, duration of final illness, and state of previous health of each of the following persons, if deceased? What is the age and present state of health of each of them, if now living?

	Age if living.	Condition of Health.	Age at death.	Cause of Death.	How long sick.	Previous Health.
Father,						
Mother,						
Brothers,						
Sisters,						
Father's mother,						
Father's father,						
Mother's mother,						
Mother's father,						

In giving the cause of death, avoid all indefinite terms, such as "general debility," "change of life," "fever," "exposure," &c. If the word Child-birth be used, state how long after delivery death occurred, and whether there were any symptoms of disease of the chest, such as cough, expectoration, &c.

22. Have any of your grandparents, or any descendants of any of them, died or suffered from consumption, scrofula, insanity, gout, or any pulmonary or hereditary disease? ——— If so, what was the age of each of such persons at death? ——— Relationship of each to you? ——— And the cause of death? ——— Answer in detail.

23. Is there anything in your physical condition, family or personal history or habits, tending to shorten your life, which is not distinctly set forth above? ———

In the presence of

Medical Examiner.

Signature of the person whose life is proposed for insurance.

The physician making up his judgments upon the basis of his knowledge, experience and special observations, was to report to the company his decision as to the truth and fulness of each answer, and also to report detections and discoveries influencing the character of the risk not set forth in the applicant's answers. With the applicant, as such so defined or undefined, the answers were admitted by him to be "material," and warranted "to be full, complete and true," and upon these, should the insurance applied for be granted, the contract with the company would be founded. While, apparently, such stipulations would be productive of a large amount of litigation, contested claims were an exception; but the exception showed the uncertainties of the situation.

In the case of John H. Allen, executor of Edward Carroll, against the World Mutual Life, of New York, a verdict of \$10,876 was rendered for the plaintiff, April 23, in the United States Circuit Court at Philadelphia; McKennan, J. Defendant resisted payment on the ground that Carroll had not truthfully answered all the questions put to him by the medical examiner, and showed that Carroll had been examined by two physicians connected with other companies, and been rejected by both, for the reason that in their opinion incipient consumption existed. Judge McKennan, in his charge to the jury, said: "If Edward Carroll had deceived the medical examiner, the verdict should be for the defendant, if not, for plaintiff—it was a question of fact for the jury." After an absence of about an hour the jury rendered a verdict, as stated, which verdict was subsequently set aside and a new trial granted.

In the case of Schaible *vs.* Washington Life Insurance Company of New York, District Court, Thayer, J., rule for a new trial, opinion delivered July 12, the terms of the agreement being representations and not warranties, the rule was discharged:—

Thayer, J.: . . . . . The assured died suddenly ten days after the application was made, and the weight of the evidence [post-mortem examination, etc.,] undoubtedly was that she died of an abscess in the right lung. . . . . Previous to the insurance the deceased was examined by Dr. Griffith, a regular physician, and employed by the company for that purpose, who testified on the trial that he had been an examining physician for the company in at least one hundred cases, and that the deceased appeared at the time of her examination to be in good health. He had given a certificate accordingly to the company.

. . . . . The issue tried by the jury was, were the answers made in good faith and without any suppression of facts, or were they false and fraudulent? Was there any concealment and suppression of the truth? These issues the jury have found in favor of the plaintiff upon sufficient and credible proof.

. . . . . We are asked to set aside the verdict upon the theory that Eureika Randon must have known that she was diseased, because she died of an abscess in her right lung ten days after her application for insurance. How can we say that of a person who, according to all the evidence, presented every outward appearance of health almost to the very time of her death?

. . . . . If the defendants believe that they have suffered from the carelessness or incompetency of their own agents, there will be at least some compensation to those who are interested in the legitimate and successful transaction of their business, if they shall gather from their reflections the useful lesson that receiving and dividing premiums does not comprise the whole duty of insurers.

The plaintiff, during the trial, produced a photograph of Eureika Randon, which he proved, by several witnesses well acquainted with her, and who had seen her within a week of her decease, to be a truthful representation of her as she appeared at that time. . . . . We think the photograph was competent to go to the jury as evidence of her apparent bodily condition at that time. . . . . (9 Phila., 136.)

In Scott *vs.* Insurance Company, at Nisi Prius in 1873, defendant's plea alleged that the insured had answered falsely. The replication set forth that insured had had no such disease, etc., with which the insurers ought to have been made acquainted. Demurrer to plaintiff's replication:—

Agnew, J.: . . . . . In the defendants' fourth plea they aver that the policy was made on this condition; that the fourteenth interrogatory is: "Has the party been afflicted during the past seven years with any severe or constitutional disease, and what?" and the answer to it is: "Six years ago had typhoid fever; no other serious illness." The plea then avers that the party (James W. Scott) had been afflicted during the seven years last past with a severe and serious disease and illness known as inflammation of the lungs,



which they are ready to verify. This plea is evidently founded on the fourth condition of the policy, which provides expressly that the answers and declarations are the basis of the contract, and if found in any respect untrue, the policy shall be void.

The plaintiff had a right to deny the fact and take issue upon it, or, admitting the fact of having had the disease, to deny that it was a severe or constitutional disease, and take issue on that fact; either of which would be, if found for her, a perfect replication to the plea. But the plaintiff did neither. She does not reply simply that the insured had no such disease as inflammation of the lungs within the time averred, but she qualifies the replication by saying he had no such disease "which rendered an assurance on his life more than usually hazardous, or with which the directors of the company ought to have been made acquainted." This is clearly a departure. . . . The question is, whether the interrogatories were *truly* answered; because the contract was agreed to be on that basis. The allegation of no concealment is not issuable, but shifts the ground so as to prevent the defendants from taking their defence under the fourth condition, and departs to another portion of the declaration made to procure the policy, relating to concealment, to which the plea is not applicable. In short, the defendants averred a *falsehood*, which avoided the contract, not a concealment; and it is not in the power of a plaintiff to compel them to shift their ground. The plaintiff may deny his having had the disease at all, or she may deny that it is a severe or constitutional disease within the meaning of the fourteenth interrogatory, and thus raise an issue.

Looking at the ground covered by the eighth, tenth, eleventh, twelfth, thirteenth, fifteenth and sixteenth interrogatories, it may be doubtful whether the fourteenth was intended to apply to any other than a chronic or constitutional disease existing "during" the period of the seven years. It is scarcely probable the fourteenth was intended to cover the same ground as the other interrogatories, but rather to ascertain whether the party was subject to a continuing or enduring *affliction*, severe in its character, or one which is constitutional, and therefore is of like kind. Where the interrogatory is doubtful (and using the word *during* instead of within certainly makes it not very clear), the assured is not to take the risk of the doubt. (*Insurance Company vs. Croppen*, 8 Casey, 351; *Buckley vs. Insurance Company*, 11 Wright, 209-211.) However, this point is not decided.

My conclusion is that the demurrer must be sustained; . . . leave is granted to the plaintiff to amend. (9 Phila., 266.)

As an instance of litigation arising from a peculiar assignment of a life policy, we note the case, in the District Court (9 Phila.), of Mrs. Martha Bond, who, in 1870, insured the life of her husband for \$10,000 in the Mutual Benefit Life, of New Jersey. She subsequently joined him in executing an instrument, under seal, by which the amount insured above \$5,000 was assigned to Henry Bunting, in trust for her husband's children by a former marriage; but when her husband's influence was removed by death, she challenged the right of the trustee to the fund. The money was paid into court, and an issue framed and submitted to a jury, who found that the only consideration for the transfer was the affection which John R. Bond had for his children. Notice of the assignment was given; "a circumstance," said Hare, P. J., "which might be material in England, but seems to be of no moment in Pennsylvania." It was held that the trustee was entitled to the fund. This suit involved the question: Can a married woman dispose of her personal property without a separate act of acknowledgment? In this case the voluntary assignment was deemed sufficient as an equitable transfer.

Non-delivery of a policy in assignment was the controlling element of a case defeating the purpose of the insured. Henry Trough having effected an insurance for \$3,000 on his life in the Royal, executed under seal, May 17, 1861, in consideration of one dollar and love and affection for his children, an assignment of the policy in trust for them to John W. Hicks, put the policy and the assignment into an envelope addressed to "John W. Hicks, plumber, Second street. Please send this to him at my death. H. Trough." Trough

paid the premiums until his death seven years afterwards, and until then Hicks knew nothing of the transfer. Trough was solvent when making the assignment, but insolvent at his death. In the Orphans' Court the auditor's report pronounced the deed of assignment and declaration of trust invalid, because not delivered to the assignee and trustee. To this ruling exception was taken in behalf of the children by Mr. Hicks. The court held that the trust was valid as against creditors, the assignor being solvent at the date of the assignment, and there being "nothing to call in question the honesty and good faith of the transaction," and so awarded the money to the trustee of Trough's children, less the amount paid for premiums after the assignor became insolvent; the latter amount to be given to the creditors. (8 Phila., 214.) Taylor & Co., creditors, appealing, the Supreme Court decided that the lower court erred in sustaining the exceptions to the auditor's report. (25 P. F. Smith, 115.)

For the year 1873 the Pennsylvania insurance department counted the total premiums received on Pennsylvania lives as \$8,016,236, viz., \$2,000,000 by ten Pennsylvania life companies (partly estimated), and \$6,016,236 by other-State life companies—the latter, however, including \$84,734.97 of accident premiums of the Travelers, and \$29,532.10 premiums of the Railway Passengers' Assurance Company. Pennsylvania life policies issued in 1873 by authorized companies were:—

	Number.	Amount.
10 Pennsylvania life companies, . . . . .	3,309	\$ 9,183,761 75
40 Other-State " " . . . . .	12,999	31,745,996 60
	16,308	\$41,929,758 35

Three of the ten Pennsylvania companies here included were Pittsburgh offices, and a fourth was the semi-coöperative called the Mutual Protection, of Philadelphia, which issued 864 of the policies and \$2,405,500 of the amount. This Mutual Protection was included among legitimate life companies for the reason that part of its policies contained a defined liability, either from date of issue or one year after issue—*i. e.* were promises to insure a named sum. Total "policies" in force at end of 1873, 2,293, covering \$6,502,000, of which \$5,128,500 applied to citizens of Pennsylvania. Income in the year was \$18,395.30 cash premiums and \$51,839.00 from mortuary assessments. Excluding 334 membership policies for \$1,318,000, the State department computed net value of policies at \$191,581; total admitted assets, \$12,400.

PHILADELPHIA LIFE COMPANIES—December 31, 1873.

	Pennsylvania Policies in Force.		Total Policies in Force.	
	Number.	Amount.	Number.	Amount.
Pennsylvania Co. for Insurances on				
Lives and Granting Annuities, . .	163	\$ 563,933	163	\$ 563,933
Girard, . . . . .	925	2,334,286	925	2,334,286
Penn Mutual, . . . . .	5,240	16,691,931	7,729	24,309,774
American, . . . . .	7,293	17,127,697	14,480	33,478,575
Provident Life and Trust, . . . .	2,369	8,197,750	5,498	15,550,082
Hand-in-Hand, . . . . .	83	114,569	83	114,569
North American Mutual, . . . . .	524	1,218,762	931	1,931,407
	16,597	\$46,248,928	29,809	\$78,282,626

Amount of Pennsylvania insurance in force in non-State companies (whole-life, endowment, joint-life and survivorship, short-term and irregular policies), was in excess of two hundred million dollars. Four agencies not returning amount in force in Pennsylvania at end of 1873, the total of Pennsylvania life risks in force in the reporting companies was 45,884 policies, insuring \$161,682,381. About 60 per cent. of the insurance in force was on Philadelphia lives.

## AUTHORIZED OTHER-STATE LIFE COMPANIES—December 31, 1873.

COMPANIES.	Agent at Philadelphia.	POLICIES IN FORCE.	
		No.	Amount.
Ætna, Hartford, . . . . .	C. H. Brush,	5,031	\$8,659,027
Alliance Mutual, Kansas, . . . . .	W. R. Smith,	.. .	.. .
Atlantic Mutual, Albany, N. Y., . . . . .	J. B. Lyman,	452	879,300
Berkshire, Pittsfield, Mass., . . . . .	W. H. Graves,	455	1,103,146
Brooklyn, New York, . . . . .	George A. Bigelow,	516	1,153,407
Charter Oak, Hartford, . . . . .	Lewis F. Hilliard,	1,697	5,521,951
Continental, " . . . . .	D. S. Burnham,	1,068	2,009,100
Continental, New York, . . . . .	H. L. Jewell,	2,009	4,655,506
Connecticut General, Hartford, . . . . .	Walter H. Tilden,	255	969,449
Connecticut Mutual, " . . . . .	"	4,500	13,500,000
Equitable Life Assurance Society of the United States, New York, . . . . .	I. L. Register,	4,139	14,494,285
Germania, New York, . . . . .	Francis H. Reichard,	1,719	2,670,966
Globe Mutual, New York, . . . . .	Steph. H. Holbrooke,	549	1,383,799
Hartford Life and Annuity, . . . . .	Chauncey S. Russell,*	435	763,612
Home, Brooklyn, . . . . .	Benjamin K. Esler,	237	744,900
Homœopathic Mutual, New York, . . . . .	A. B. Reynell,	121	338,045
John Hancock Mutual, Boston, . . . . .	Alfred R. Potter,	405	1,227,350
Knickerbocker, New York, . . . . .	August Werner,	1,771	3,378,946
Life Association of America, St. Louis, . . . . .	George B. Woods,	181	1,294,735
Manhattan, New York, . . . . .	James B. Carr,	.. .	.. .
Massachusetts Mutual, Springfield, . . . . .	Chas. McLean Knox,	.. .	.. .
Merchants, New York, . . . . .	James M. Longacre,	.. .	.. .
Metropolitan, New York, . . . . .	J. A. M. Passmore,†	2,376	3,122,064
Missouri Valley, Leavenworth, . . . . .	C. E. Rollins,	10	34,500
Mutual, New York, . . . . .	Fred'k W. Vanuxem,	.. .	.. .
Mutual Benefit, Newark, N. J., . . . . .	Edwin V. Machette,	4,139	13,658,000
National, U. S. A., Washington, . . . . .	Louis Wagner,	1,816	5,210,792
New England Mutual, Boston, . . . . .	John Marston, Jr.,	1,882	6,340,746
New Jersey Mutual, Newark, . . . . .	Charles Tredick,	684	1,501,956
New York, New York, . . . . .	Thos. J. Lancaster,	.. .	.. .
North America, New York, . . . . .	Nelson F. Evans,	1,498	3,457,885
Northwestern Mutual, Milwaukee, . . . . .	George Dart,	1,323	3,114,896
Phoenix Mutual, Hartford, . . . . .	William L. Tyler,‡	1,471	3,876,273
Piedmont and Arlington, Richmond, . . . . .	George W. Gile,	53	102,000
Protection, Chicago, . . . . .	John M. Davies,§	.. .	.. .
St. Louis Mutual, St. Louis, . . . . .	Warren P. Adams,	.. .	.. .
Security Life and Annuity, New York, . . . . .	Ezra Willits,	249	834,994
State Mutual, Worcester, Mass., . . . . .	Frank A. Page,	.. .	.. .
Teutonia, Chicago, . . . . .	Albert Heubel,	301	258,000
Travelers, Hartford, . . . . .	W. W. Allen,	652	1,582,801
Union Central, Cincinnati, . . . . .	Alfred Creigh,	.. .	.. .
Union Mutual, Augusta, Me., . . . . .	George N. Reynolds,	1,989	4,161,200
United States, New York, . . . . .	Hugh Hamilton,	489	1,405,050
Universal, " . . . . .	William Arrott,	152	420,250
Washington, " . . . . .	Richard Fisher,	1,260	2,853,450
		45,884	\$161,682,381

\* Towanda.

† Pottsville.

‡ Harrisburg.

§ Corry.

|| Washington, Pa.



The Union Central, of Cincinnati, O., recently admitted, issued nineteen policies in 1873, insuring \$29,000. The Alliance Mutual, Kansas, Life Association of America, Missouri, the Protection, Chicago, St. Louis Mutual, and the State Mutual, Worcester, Mass., were also recent admissions. Established agencies whose insurances in force were not reported for 1873, had the following outstanding insurances at the close of 1874:—

	Number.	Amount.
Manhattan, New York, . . . . .	1,398	\$ 4,806,469
Massachusetts Mutual, Springfield, . . . . .	766	2,400,407
Mutual, New York, . . . . .	11,545	36,595,490
New York, New York, . . . . .	2,896	7,668,345

The positions and operations of the Philadelphia companies issuing life policies, during and at the end of 1873, were in accordance with the following data:—

	Assets, Dec. 31.	Liabilities, Dec. 31.	Premiums received.	Total income.	Losses paid.	Total paid policy- holders, (cash.)	Total disburse- ments.
American, . . . . .	\$4,392,202	\$4,139,372	\$1,175,737	\$1,430,361	\$459,114	\$638,353	\$985,270
Girard, . . . . .	*2,010,316	*920,640	88,047	203,051	70,231	80,285	122,565
Hand-in-Hand, . . . . .	24,272	12,375	5,244	7,173	. . . . .	260	10,046
N. American Mut., . . . . .	376,592	228,866	82,701	112,480	16,725	27,424	69,240
Penn Mutual, . . . . .	4,101,133	3,743,805	1,010,314	1,276,143	294,264	576,003	913,065
Provident, . . . . .	2,127,029	1,511,301	579,487	676,264	79,624	157,995	301,361
Totals, . . . . .	\$13,031,544	\$10,556,359	\$2,941,530	\$3,705,472	\$919,958	\$1,480,320	\$2,401,547

Net value of \$2,334,286 of insurance in force in the Girard Life (chiefly whole-life policies, and business dating from 1836), was \$615,599, or 26.37 per cent. of policy sums—American Experience, 4½ per cent. The Girard issued sixty-two whole-life policies and three short-term policies in the year.—Computing \$570,565 of insurance in force in the Pennsylvania Company for Insurances on Lives, etc., (new policies not issued, and business dating from 1813,) the net value was given by the department as \$243,511, or 42.67 per cent.; no endowment policies.

1873.

OF INCOME AND DISBURSEMENTS.

	American.	Girard.	Hand in Hand.	North American Mutual.	Penn Mutual.	Provident.
Cash premiums on new policies, . . . . .	\$112,188	\$ 1,299	\$1,524	\$ 7,420	. . . . .	. . . . .
Renewal premiums, . . . . .	970,762	67,748	3,098	66,620	\$929,711†	\$534,344†
Received for annuities, . . . . .	. . . . .	10,000	. . . . .	. . . . .	. . . . .	125
Interest, and rent income, . . . . .	254,624	115,004	1,147	24,266	225,218	96,777
Premium notes, . . . . .	92,788	. . . . .	622	5,720	69,907	23,327
Losses paid, cash, . . . . .	454,924	70,231	. . . . .	11,617	273,555	69,624
Paid to annuitants, cash, . . . . .	1,410	812	. . . . .	. . . . .	. . . . .	3,139
Paid for lapsed and surrendered poli- cies, cash, . . . . .	18,747	9,241	260	4,617	12,708	17,563
Dividends to policyholders, cash, . . . . .	163,272	. . . . .	. . . . .	6,189	279,740	57,668
Losses paid, notes, . . . . .	4,190	. . . . .	. . . . .	107	10,709	. . . . .
Surrendered policies, notes, . . . . .	2,230	. . . . .	1,589	1,032	37,598	. . . . .
Dividends to policyholders, notes, . . . . .	55,581	. . . . .	. . . . .	2,326	90,981	14,578
Voided by lapse, notes, . . . . .	26,577	. . . . .	149	581	2,893	3,977

\* Life and trust departments not separated.

† New and renewal premiums.

The American Life paid for commissions to agents in 1873, \$119,828.69; the Penn Mutual paid \$52,262.73.

The Alliance and the Missouri Valley, of Leavenworth, the Merchants' and the North America, of New York, did not renew their certificates for 1874. Most of the policies in force at the time in the Missouri Valley were "irregular" policies for small amounts, the company issuing certificates—bank-note form—for \$100 "industrial" insurance; but its operations in Pennsylvania were very limited. The North America, of New York, passing to the control of the Universal Life—H. J. Furber, of the Universal, becoming president—and notified by the New York superintendent to cease issuing new policies, was contesting in United States Circuit Court, McKennan, J., payment of a \$3,000 policy on life of plaintiff's nephew, John H. Boraef. Policy had expired, but premium was accepted by a clerk in the office under condition of reëxamination of the insured with favorable report of the medical examiner. The insured died of small-pox after three days' illness, and no examination had been made. Verdict for the defendant company.

In a suit at Nisi Prius, Sharswood, J., of Robert Fox against the Penn Mutual, the jury gave a verdict against the company for \$20,691.55—creditor policy. The questions involved were use of intoxicating liquors and insurable interest. In the charge of the court, intemperate habits were defined to be "habitual drunkenness," not occasional drunkenness. The verdict was set aside and a new trial granted. As to insurable interest, the doctrine enunciated was that of indemnity, the insurance not to be confirmed if it appear from the great disparity between the debt and the amount insured, or otherwise, that the transaction was rather one for speculation than protection. (4 Big., L. & Acc. Ins. Cas., 458.) Fox subsequently advertised for sale two policies in the Penn Mutual for \$20,000 each, on "liberal terms."

President Samuel C. Huey, of the Penn Mutual Life, presided at the quarterly meeting of the Chamber of Life Insurance held in New York, July 14, 1874.

After seven years' trial, the attempt to establish the Hand-in-Hand Mutual Life Insurance Company was a manifest failure. A capital of \$54,863.32 appears to have been paid in, but the amount of assets admitted by the State insurance department was, at end of 1873, less than one-half of such figure, as has been shown, and the stock was selling at \$1.00 per share. Early in 1874 a verdict was rendered against it in District Court, No. 1, for \$1,052, and as the year drew to a close the business was discontinued, with the company having thirty-nine policies in force, insuring \$29,020—department net value \$5,813; ceasing in the year forty-four policies, amount \$85,549. Total liabilities as to policyholders were \$11,081.01; total admitted assets \$12,181.87.

From the life insurance inflation of 1862-70 reaction was continuing with increasing impetus at the beginning of 1875. The capital stock of the National Life Insurance Company of the United States of America had been purchased by parties running the Republic Life, of Chicago, another joint-stock affair; but this, if seemingly a gain of the West upon the East, still only preceded the

general collapse of Western life insurance offices. Irrespective, however, of any sectional discrimination, it was beginning to be manifest that, with some exceptions, there was not sufficient ability in the management of companies starting in the previous ten years to maintain their organizations under the growing pressure. The Republic, of Chicago, stopped issuing policies, and its official staff was transferred to the National.

A casualty insurance company of New York, called the National Travelers, and incorporated May 5, 1866, became, March 24, 1868, the Metropolitan Life Insurance Company, and, in the language of Superintendent Barnes, "the company now appears as a pure and simple life insurance company unembarrassed by any of the complications of an accident and casualty insurance business, . . . with the advantage of considerable experience in business and of several agencies already established." In the remainder of 1868 the Metropolitan Life issued 1,447 policies in the United States, having an average of \$3,000 of risk; under the changed circumstances of 1874 the Metropolitan issued in Pennsylvania, in 1874, 1,468 policies, insuring an average of \$1,352. In *number* of Pennsylvania policies issued in 1874 the Metropolitan exceeded any other life company, excepting The Mutual Life, of New York. This was some index to the work wherein the management of the Metropolitan Life evinced its special aptitude. The Metropolitan was pursuing a method which it began in 1869, with policy payable by *weekly* premiums and part of the policy sum payable *immediately* after death, the remainder after the usual interval. The minimum of such policy sum was \$500; no issues of such policy for ages under twenty years.

Policies of the American Life in force fell off 381 in number and \$1,941,905.76 in amount insured December 31, 1874, as compared with the close of the previous year when the State department report showed an impairment of the \$500,000 stock capital to the extent of \$241,169.85. Such falling off in 1874 of outstanding contracts was against a policy issue in the year of 1,690 in number and \$3,535,157 in amount of insurance, and evinced a large substitution of paid-up for premium-paying policies. Further, the amount paid on account of surrendered or purchased policies was \$36,878.26 in 1874, against \$18,747.42 in 1873. With an increase in the net value of outstanding policies in 1874, the disclosed impairment of the stock capital was reduced to \$198,226.56. The position of the American Life was seriously affected by the practically deficient loading in the joint-stock policies and the mortality experience in the South-western States. Compared with the State standard of net premium, the gross premium of the joint-stock whole-life policies presented this contrast or conformity:—

	Gross Premiums.	Net Premiums (Am. Exp., 4½ %).
Age 20, . . . . .	\$14.70	\$11.97
25, . . . . .	17.00	13.42
30, . . . . .	19.60	15.34
35, . . . . .	22.90	17.88
40, . . . . .	26.70	21.30
45, . . . . .	31.00	25.09
50, . . . . .	38.40	32.49



Such gross premiums were, however, higher than some scales of non-participating premiums, if lower than others.

Whatever might have been the defects of its insurance management, the American Life had been conducted with integrity and good general business ability, and the financial management was of a fair character. The trouble was, that relatively superior financial ability had to make up for inferior insurance ability. Total interest receipts in 1874, \$273,269.75—about 6 per cent. on the total investments and premium notes. November 3, this year, fifty-four shares of the company's stock, par \$50, were sold at \$51.59 per share, and 50 per cent. of the stock capital had been made up by stock dividend; dividends paid to stockholders in 1874 were \$49,372.50.

The American was yet carrying a larger amount of life insurance than any other Pennsylvania life company.

This office had executed a policy to Maria Ann Rosenagle [born Kring] on the life of Maria Catherine Kring [born Hermann]. The policy was issued January 9, 1867; the insured died April 19, following, and claim was refused on the ground of misrepresentation as to age. Answer to third interrogatory was: "Born at Baden, Germany, on the 2d of February, 1807." Answers were signed "Maria Catherine Kring by Maria Ann Rosenagle." At the trial (Common Pleas, Luzerne county,) the verdict was for the plaintiffs (Rosenagle and wife) in the sum of \$5,167.49. Defendant company offered in evidence the following:—

## EXHIBIT NO. 1.

[Seal.]

[Stamp.]

Extract, page 254, Sec. 48, anno 1798.

1. In the year of our Lord, 1798, on the 17th day of the month of October, I, the undersigned, Joannes Bapt. Brenning, pastor, baptized an infant, born on the same day, about the fifth morning hour, of Joseph Hermann, citizen, and Elizabeth, born Riedel, lawful consorts of this parish, to which was given the name Maria Cathrina. . . . . Therefore the undersigned, in their own hands, attest with me.

JOSEPH HERMANN,  
KARL ROMELE, School teacher,  
and I, JOANNES BAPT. BRENNIG,  
Pastor to St. Michael, the Archangel, of the place Odenheim.

Defendant assigned for error different rejections of testimony.

In Error. Woodward, J. (May 10, 1875.) . . . . . The immediate question related to the identity of Mrs. Kring, who had been represented in the application as having been born in 1807, and who was alleged by the defendants to have been born in 1798. The actual date of her birth was offered to be shown by other proof, and the establishment of the identity of the Maria Katherine Hermann, who was born in the parish of Odenheim on the 17th of October, 1798, with the Maria Katherine Kring, who died in Scranton on the 19th of April, 1867, was of vital importance to the defence. The fact stated was one which the witness had learned through a correspondence with his cousin Mary Ann Rosenagle and her husband, who were the plaintiffs. No question was made as to the authenticity of the letters. The witness had personally known both Mrs. Rosenagle and Mrs. Kring. The stringency of the rule requiring search for documents and proof of their loss, in order to make parol evidence of their contents admissible, is proportioned always to the character and value of the documents themselves. These letters were between relatives, and do not appear to have had any such obvious importance as to require care for their preservation. Slight proof of loss, therefore, was sufficient. This principle has uniformly been applied where documents, which from their very nature would have only transitory interest, have been in question.

A deposition will not be rejected because the witness speaks of papers not produced, if it appear that the papers are such as would not probably be preserved for so great a length of time as had elapsed when the testimony was taken, or are not in the possession or power of the witness or the party offering the deposition.

The fourth assignment of error was rejection of proof of identity by proof of Mrs. Kring's pedigree. . . . These facts may be established by general repute in the family, and proved by a surviving member of it. For the purposes of this case, this evidence was legitimate. . . . The record of the common statute laws of Baden was properly rejected. The exemplification [copy cited] proves nothing except certain peculiarities of official form.

Judgment reversed and *venire facias de novo* awarded. (27 P. F. Smith, 507.)

With the Chamber of Life Insurance trying to augment the warranty in the policy, there was a growing discussion on the matter of the contestability of the life policy as a technical question from the standpoint of the doctrine: "insurance insures."

Nineteen of the twenty-two life companies of other States appealing from the settlement of taxes under act of April 4, 1873, and having \$130,227.23 of such tax due December 31, 1874, had their certificates renewed for 1875 by the insurance commissioner—such renewal being in accordance with the opinion of the attorney-general, that, pending the decision of the court, the giving of security was sufficient without requiring the tax to be paid. The St. Louis Mutual Life, reinsuring in the Mound City, and also the Guardian Life, of New York, (the latter reinsured in the Universal March 14, 1874, and retiring from Pennsylvania at the close of 1873,) as well as the North America, of New York, debarred from new business and controlled by the Universal, were included in the twenty-two companies. Two other companies whose licenses for 1875 were not renewed, were the Piedmont and Arlington, of Richmond, Va., and the Teutonia, of Chicago.

Life policies had begun to have something of a negotiable value, but this was a very uncertain quantity, dependent upon the relations of the accumulations to the various circumstances of the risk. A policy for \$5,000 in a reputable non-State life insurance company was sold by auction, Philadelphia, May 18, 1875, for \$300. Meanwhile the earning capacity of the life policy was showing itself in estimates of the ability of a company to hasten the payment of a policy as an endowment through the force of dividends withheld and accumulating. This, though not based upon any rule of survivorship, was in the tontine direction. The Mutual Benefit Life, of New Jersey, projected a plan to convert the whole-life policy into an accelerative endowment, according to the measure of dividends declared and withheld. There was no guarantee of dividends, or term of ultimate payment, but the insured was to gain in proportion to the company's results; and there was ground to anticipate that for age 50 the whole-life policy would so mature in about eighteen years; the ten-year payment policy, age 35, in twenty years. It was also proposed similarly to anticipate the named-term endowment payment.

To reduce its mortality ratio, the American Life this year reinsured its South-western risks—about one thousand in number—in the Mobile Life, of

Alabama; the consideration therefor being the full net value of the policy by American Experience,  $4\frac{1}{2}$  per cent., which was, in effect, a declaration that for such risks in a Northern life insurance company the net valuation was inadequate.

In 1875 the American Popular Life, of New York, the Provident Savings, of New York, and the Pacific Mutual, of California, were admitted in Pennsylvania. The first of these represented a theory of life risk distinct from the age standards of the mortality tables; the second was started to reduce to practice, if practicable, premiums for current death cost heavily loaded for expenses and contingencies; the third was of the attempts to found life insurance organizations beyond the territorial limits where, as yet, qualification had been shown to establish but in exceptional cases such organizations upon a stable basis.

Incidental to abuses arising in the practice of life insurance was a growth of simply alluring devices tending to degenerate into downright charlatanism. Mathematics defined the processes towards results of certain assumptions; medical examinations elected the fit vitality which would probably comport with the age mortality in the regulating tabulation of death. Practically, however, the life insurance scheme was rather economical than mathematical or physiological. If the economics were right, it was of secondary account whether the mathematics and the medical examinations were fallacious, provided manifest truth was not violated. Mathematics, *per se*, is an exact science. Neither the life insurance computations nor the medical tests were such a science. Both the actuary and the physician were empiricists, and which contributed the more to promote the security of the method was a debatable question. No physician had discovered by his tests that the vitality of the colored man was less than that of the white man. No actuary had realized that he was striving for the solution of an equation into which all the terms had not yet entered, and that the coefficients employed were essentially indeterminate.

The American Popular Life Insurance Company, projected by Dr. T. S. Lambert, began business in Philadelphia nine years after commencing in New York; J. M. Downing, agent. The conceit at the base of its plan was that the table age measure of decreasing life or vitality in an aggregation of lives gave a false measure of after-life from a given year, and a false longevity from birth. It was of the same misjudgment as that which understands that if an accepted tabulation makes for age 35 an "expectation" of 31.78 years, therefore John Smith, in good health and 35 years of age, has a predominant probability of living 31.78 years. But the account prophesies nothing as to the particular *individual*, Smith, but relates to *all* the Smiths of age 35 as they shall die *severally*, and rather indicates that *not one* of the Smiths will die 31.78 years after his 35th year.\* The simple, yet great fact supporting the age tabulation

\* Dr. Lambert, in an address in New York, before the National Insurance Convention, October 27, 1871, said:—

..... Another illustration that this ordinary method of computing risks is wrong, is found in the "expectations" and longevities thus produced, giving to a person the greater longevity the older he is: *e. g.*, a person when 25 years of age has an "expectation," according to "Farr's tables," of 36 years, giving him a longevity of 61; when 40, he has, by the same table, an "expectation" of 26, or a longevity



vitality, and putting it in advance of all other devices, was the *absolute* truth that *every* person of age 35 July 1, 1875, was exactly one year nearer the grave than at age 34 July 1, 1874. The conjectural biometry of the American Popular was, however, pervaded with sound deductions; there was about an equal blending of truth and fallacy, but its physiology was better than its insurance. The fact that insurance is not an individualizing, but a classifying of risk, was misapprehended, havoc was made of computation, but the theory maintained, or rather was in accord with, the wisdom given of old: "Seeing his days are determined, the number of his months are with thee; thou hast appointed his bounds that he cannot pass." But with birth conditions fixing the limits of life, age became the determining measure of the decrement of life. Humanity as *massed* in a general population has less vitality at age 50 than at age 40 (and about *seven*,\* not *ten*, years less "expectation"); the probabilities were at least nine in ten that any aggregation of lives in an insurance company would show somewhat corresponding relation of vitality to age, though the individual cases might be many in which a healthy life of age 40 had less vitality than another no more healthy life of age 50.

So the American Popular Life, in its first year, answered "Yes" emphatically to this interrogation by the New York superintendent:—

Are policies ever issued under an assumed age differing from the real age of the party insured.†

of 66; when 50, an "expectation" of 20 and a longevity of 70. [Expectation did not represent "longevity" or long life, but mean after-life.] This is far from correct, either in theory or in fact. A person has a given potential and a given rational longevity at birth, and this does not vary as he advances in life. If his potential longevity does not at birth reach to 70 years, it will not when he is 40 years old, nor when he is 50. True, when he is 40 he has a greater number of chances of reaching his potential longevity, whatever that may be, than when he is 25, but no more chances of exceeding it. His rational or "expected" longevity may be carried up a little in most cases and very much in others, as he increases in years, but this is to be determined by an examination of each case for itself. If he has not had any ancestry for several generations who attained 70 years, there is not one chance in ten thousand that he will attain that age.

A person, therefore, at 50 may be ever so hale and hearty, without any constitutional disease, inherited or acquired, and . . . . . be entirely incapable of attaining the expected longevity of 70, or of living through the "expectation" of 20 which are given to him by the erroneous computations of the usual tables. . . . .

There is nothing more certain in science, than that all of life which is the dynamic, and that all of the secretory tissue, the static, have a given life-time determined at their birth, and not possible to be extended, although, as is usually more or less the case, the life-time may be shortened. . . . . In fact, one of the properties, or rather one of the chief phenomena exhibited by life, is merely the activity of the secretory tissue. . . . .

The Biometry, or measure of life, depends upon certain facts in the person, which are indicated by the three measures, of *size* of the great centres, the head and the trunk, the *form* of all parts of the body, and the *color* of its surfaces; all of which are easily defined, analyzed, set down upon paper, cross-questioned by statements of different persons, and easily judged by an expert, or even by any one, at least if medically qualified.

By proper and detailed blank applications, filled properly, as may easily be done, such a life history and life picture of a person may be obtained as will enable almost any one, certainly any expert, to judge of the applicant's probability of living, of his vitality and probable longevity, with practical certainty. . . . . I do not believe that any blank application has yet been constructed that is as perfect as additional discussion and additional knowledge can produce, and as it would be useful to have.

\* The survival of the fittest.

† The following is cited from an illustration of the company's original features:—

3. If a person at 25 takes a ten-year payment policy for \$10,000, and chooses at any time to stop paying his premiums, he may secure, for the first year, a paid-up policy of not only \$1,000, but \$1,090 assurance, for the payment of that year, etc.

4. The company will charge a premium according to all the known circumstances of each life; if healthy, will rate his age younger than he is, and if in impaired health, will rate him older than he is.

5. If, when the insured dies, he has lived beyond his rated expectation, and it is proved to the satisfaction of the company that he has lived in a manner tending to longevity, a bonus, at the discretion of the company, will be added to his insurance.

The Provident Savings Life Assurance Society was projected by Sheppard Homans, beginning August 10, 1875, and it was expressly an *age* life insurance. It was not the mathematical counterpart of the physiological American Popular, for it proposed nothing essentially new in formulæ. It was a proposition to work upon a bipartite instead of tripartite premium, and so, as a single year insurance to be pursued through successive years, it rested upon the maximum effect of a mortality tabulation (American Experience) less true in its several parts than as a whole. This was qualified, however, by the premium arrangement, which was full, whole-life, uniform 4 per cent. net premium, loaded 40 per cent. for the first year; and for each succeeding year, the uniform whole-life premium for such year as initial age less first year's reserve of previous age, was charged.\* That is, the single year net premium was loaded approximately 100 per cent. So, insurance being whole-life for \$1,000, commencing at, say age 35, and continuing to end of age 50, the uniform premium would pay \$412.08, the age-increasing premiums \$335.71, and for such difference of \$76.37 the uniform premium would accumulate \$222.99 for account of the policy paying uniform premium, while the accumulation in behalf of the policy paying increasing age premiums would be \$21.56; *i. e.*, the excess paid by the uniform premium of \$76.37 would result in the comparative gain of \$201.43. The expenses to the insured by the uniform policy would be \$120.64 (uniformly

6. Premiums may be paid weekly, monthly, quarterly or annually.

7. The only restriction as to travel or residence is, that he shall not reside within one hundred miles of the Gulf of Mexico during summer, nor ever between the tropics.

8. The company has organized a Mutual department, in which the insured, by paying an increased premium, will receive an annuity which may be expected to equal at least 100 per cent. on his annual premiums.

9. It proposes to issue a new kind of policy, called Endowry Policy, to accommodate those who wish to make provision for their daughters or others at marriage, and especially to accommodate females who wish to endow themselves.

In conclusion, the company proposes to insure any one, upon the ground that ordinary and inferior lives are the very ones that most need insurance.

* AGE.	Uniform annual premium, \$1,000 insurance.	Increasing age premium.	Annual death cost.	Margin for expenses in age premiums.	Amount Insured, less Assets in hand.		The first year's reserve.
					Uniform premium.	Age Premium.	
35, . . . . .	26.38	26.38	8.51	7.54	989.25	989.25	10.75
36, . . . . .	27.25	16.50	8.64	7.79	978.12	988.74	11.26
37, . . . . .	28.17	16.91	8.77	8.05	966.57	988.20	11.80
38, . . . . .	29.15	17.35	8.93	8.33	954.62	987.64	12.36
39, . . . . .	30.19	17.83	9.10	8.62	942.24	987.03	12.97
40, . . . . .	31.30	18.33	9.29	8.95	929.44	986.41	13.59
41, . . . . .	32.47	18.88	9.49	9.28	916.19	985.75	14.25
42, . . . . .	33.72	19.47	9.71	9.64	902.50	985.05	14.95
43, . . . . .	35.05	20.10	9.95	10.02	888.34	984.32	15.68
44, . . . . .	36.46	20.78	10.24	10.42	873.74	983.57	16.43
45, . . . . .	37.97	21.54	10.55	10.85	858.68	982.76	17.24
46, . . . . .	39.58	22.34	10.92	11.31	843.18	981.95	18.05
47, . . . . .	41.30	23.25	11.32	11.80	827.24	981.09	18.91
48, . . . . .	43.13	24.22	11.79	12.32	810.88	980.22	19.78
49, . . . . .	45.09	25.31	12.34	12.88	794.13	979.34	20.66
50, . . . . .	47.18	26.52	12.97	13.48	777.01	978.44	21.56



\$7.54 a year), and by the age policy \$162.52. By age 60 the asset accumulations of the uniform premium policy would be \$409.25, that of the other \$31.83. Such results were apart from the element of dividend.

There is nothing the incompetent insurance official more shrinks from than an account of liabilities, and the superserviceable actuary is always ready with expedients to figure less liability. If the question between gross and net valuation of policy were a knotty question, Mr. Homans's plan cut the knot instead of essaying to untie it. The proposition not being an assessmentism, was not coöperativism, though it would reduce life insurance to a mere annual account current. It charged the maximum premium for the minimum of responsibility and remuneration, and was the minimum of financial security, excepting in so far as peril was averted by the excessive loading. Being an absolutely renewable annual insurance, and therefore essentially non-endowment, there was no future value to be discounted.

Up to November, 1875, the claims paid through the Philadelphia agency of The Mutual Life, of New York, averaged in amount \$3,810; to which average dividend additions to policies were an important contribution.

This year the Presbyterian Corporation, having obtained an amendment to charter with change of name, engaged in the general business of life insurance under the title Presbyterian Annuity and Life Insurance Company; James Ross Snowden, president, Thomas L. Janeway, secretary. At the end of the year it had 147 policies and annuities in force, amounting to \$189,454.86.

At the close of 1875 the American Popular Life, of New York, had reported, per State insurance department, 3,309 policies in force, insuring \$10,213,187. In the course of the year only twelve policies expired by death and maturity—according to the report,—in amount \$31,216. With assets by the books at \$830,229.34, including an alleged paid-up stock capital of \$306,700, there were actual investments to the amount of \$322,375.10, and \$130,607.32 of premium notes—net reinsurance liability, American Experience, 4½ per cent., \$504,753. Stock capital was impaired by the showing \$104,220.

The wrecker was now contributing his share towards augmenting the life insurance collapses. Twenty-two New York companies had ceased after the closing up of the Great Western Life. The American Tontine had reinsured in the Empire Mutual, the Empire Mutual had reinsured in the Continental Life, and the Continental Life remained to be disposed of, etc.

Fairly started in a progressive career, the Penn Mutual Life was not driven back, as the threatened general life insurance interest retrograded. It issued more policies in 1875 than it had in 1874, and it began the Centennial year with a new contingent endowment policy at whole-life rates—dividends withheld to accrue as endowment—result dependent upon expenses of management, mortality actually experienced, and rate of interest realized. By past experience there was ground to estimate an approximation to this consummation:—

*Insurance \$1,000, Whole Life.*

Age.	Annual premium.	Matures as an endowment in
26, . . . . .	\$21.10	26 years.
30, . . . . .	23.60	24 "
35, . . . . .	27.50	22 "
40, . . . . .	32.00	19 "



A policy of the Penn Mutual, issued in 1847, amount \$5,000, premium \$155.50, lapsed in September, 1861, by reason of the civil war, the insured being a resident of the State of Virginia. In the year 1859 Mr. Bird, the insured, borrowed from the company \$600, when it took the policy and also a pledge of the accrued and accruing dividends as security for its loan. At various times he made payments on account of this loan, until it was reduced, in the spring of 1861, to \$250, for which balance the company held his note payable April 27, 1861, the war beginning in the interim. The company being in possession of the policy, treated the insurance as ended with non-payment of premium in September, and wrote upon the policy "Forfeited," "Cancelled," and obliterated the signatures of the officers. In 1862 the company closed his accounts on the books by crediting on account of the note \$52.73, which was due to the insured on its deposit book, and applied \$210 of the dividends accrued to the payment of the balance of the note with interest. This left with the company \$620 of dividends unpaid. Apart from any question as to termination of the insurance, the further dividends on the policy from January, 1862, to January, 1866, would have been about \$320, making in the whole about \$940, after deducting the \$210.

At the cessation of hostilities, Mr. Bird, by a letter of May 31, 1865, inquired whether any profits of his life insurance were in hand, and also expressed a desire to know what steps he must take to continue his insurance. An answer of date of June 9, following, stated that on the former account the company held \$620, subject to his order; and added, "the policy of insurance was forfeited for non-payment of premium in 1861, and will not now be revived by the company." Mr. Bird contended that the company ought to have applied the dividends in payment of accruing premiums. The company treated the dividends as a distinct matter. In October, 1866, the account as to dividends prior to the civil war was settled according to the company's construction. Mr. B. thereupon received on this account \$591.20. In the following year he renewed the correspondence, urging his reason for reinstatement in the insurance. The correspondence was closed in December, 1867, and a suit was instituted, E. D. Pennsylvania, Circuit Court of the United States.

Cadwalader, J. (Opinion February 7, 1876.) . . . . . Did an insured inhabitant of one of the revolted Southern States, who was prevented by the civil war from paying the annual premium to insurers in a Northern State, lose at once and irrevocably his option to continue the insurance? . . . . . When there is an option to renew, or, in more proper language, to continue the insurance from year to year, this option belongs exclusively to the party insured. It is a valuable right or privilege, and is of constantly increasing value for two reasons. The first is, that the health of the insured may fail during the first or any other year, so that his life would not, at the end of such year, be insurable at the same rate, or even, perhaps, at any rate of premium. Nevertheless, he has a right to the benefit of continuing the insurance at the conventional rate. (See Law Rep., 9 Eq., 719; Law Rep., 19 Eq., 79, 83; also Law Rep., 6 Ch., 386-7.) The second reason is, that although he may continue in sound health, he is, at every succeeding instant of time, nearer to death.

Under the most favorable condition of his health he could not, at the commencement of the war, have effected an independent new insurance at an annual premium of less than almost double the conventional rate of the annual premium fixed in the defendant's policy. These proportions may be, in part, varied in the present case of a mutual

insurance company, by dividends of accrued profits. But the difference cannot affect the principle in question. . . . The subject has been considered almost wholly upon original grounds, because, in cases more or less like the present, the conflict of opinion since the war has been apparently quite irreconcilable. It will not be necessary to mention any of the opposing decisions of State courts. On 6th of April, 1874, the judges of the Supreme Court of the United States, being equally divided in opinion upon two cases which had been very fully argued, affirmed in each case the judgment of a Circuit Court of the United States, without giving any reason except the division of opinion. In each case a policy of life insurance had contained a provision like that of which the effect is here in question.

The decision below in one of these two cases (*Hamilton vs. The Mutual Life Ins. Co.*) is reported in 9 Blatchford, 234. The insured had survived the war. So soon as the insurers, upon the return of peace, could lawfully receive any payment from him, he had tendered to them the amount of all the annual premiums for the period of the war. The tender was not accepted. He afterwards died, and, under proceedings in equity at the suit of his executor in the Circuit Court for the Southern district of New York, the complainant was reinstated in the insurance. According to this decision of the Circuit Court, the present complainant should have relief. In the other case (*Tate vs. the New York Life Ins. Co.*) the party insured had not survived the civil war, but had died in the early part of it, after non-payment of a single annual premium. On the termination of hostilities, his representatives tendered to the insurers the unpaid premium, and afterwards brought a suit in equity against them in a court in the State of Tennessee. The suit was removed into the Circuit Court of the United States for the Western district of Tennessee. On examination of the printed record in the Supreme Court, it appears that the proceedings in the Circuit Court were such that the counsel on each side doubted whether the hearing or trial was to be on the law side or on the equity side of the court. But all difficulty under this head was removed by an agreement which became part of the record. The decision of the Circuit Court was that the plaintiffs had no right of action at law or in equity. The opinion of that court is in 2 Ins. L. J., 861, and 4 Bigelow's Collection, 479 (n), without a sufficiently full prefatory statement of the case.

As between the parties litigant, and as to all persons privy in interest, the affirmance of these two judgments by an equally divided appellate court was not less conclusive than if a majority of the Court of Appeal had concurred in the judgment of affirmance. But the Supreme Court of the United States have more than once intimated that such a decision is not, in that court, considered as a judicial precedent, establishing authoritatively any principle as applicable to subsequent cases of a like character between other parties. (11 Wheaton, 59, 78; 7 Wallace, 107, 113.) A dictum of Judge Grier (7 Wall., 109), attributing greater force to it as an authoritative judicial precedent, must therefore be disregarded. But the authority of a decision of a Circuit Court cannot, after such an affirmance, be disregarded in the same or in other Circuit Courts, until a subsequent decision of the Supreme Court to the contrary. This remark might apply to either of the two decisions now in question if the other one had not also occurred.

This introduces an inquiry, whether the two decisions in the Circuit Courts are irreconcilably conflicting. The judicial reasoning which appears by the reports to have induced the respective decisions cannot be reconciled. But the points which were actually decided may be reasonably consistent with each other. The difference between the cases has been already stated. It is, that in the Tennessee case the person insured had not, as in the New York case (and in the present case), survived the war, and elected to make compensation. In the Tennessee case, therefore, compensation, if made, could not *continue* an insurance. The insurance had been upon a life which was ended. There was not, as in the other cases, a continuing risk; nor was there an option to be prolonged. The option was already gone. The offer of compensation could only, in substance and effect, be a proposed credit in reduction of the amount of money insured. There could be no absolute certainty that, if there had been no war, the person insured would have elected to pay the premium in 1861. His former motives for insuring might have ceased to exist; but, on his death, his representatives could not, if they had a continuing right of election, have any possible motive to forbear the exercise of it.

It has been suggested for the defence, but not much pressed, that there has been culpable delay on the part of the complainant in bringing the present suit. Until his death, no definite right of action will have accrued; but, in the meantime, his invocation of the exercise of equitable jurisdiction has become proper, by reason of the forfeiture at law, and of the cancellation of the policy by the defendants, and their accountability for dividends of profits, which accountability complicates the question of equitable compensation. Therefore, even if the policy had not been, as it is, a sealed one, the suit would not have been too late.



But it is not improbable that, at the present session of the Supreme Court, the question or questions upon which the judges were equally divided in opinion in 1874, may be authoritatively decided. This cause, if neither party shall show reason to speed it, may therefore stand over for the present without any formal entry of a decree.\* (11 Phila., 485.)

If the dissent of Justice Strong (New York Life Ins. Co., appellant, *vs.* Statham, etc.), in the United States Supreme Court (note *subter*), were better law, *per se*, than the non-forfeiture opinion of the majority of the court, it was poorer life insurance. (Justice Bradley, who delivered the opinion of the court, had been actuary of the New Jersey Mutual Life.) The doctrine of the dissenting jurist, reduced to legislative practice, would have excluded surrender values from the State regulations. It was not, however, defective in this from the standpoint of the life insurance contract; but the "same annual premium" for all the successive years *did* pay in each of the earlier years for more than the current insurance itself, and in arithmetical construction the premium was partly an account for the future.

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\* Supreme Court of the United States: The New York Life Insurance Company, appellant, *vs.* William C. Statham *et al.*, appeal from Circuit Court of the United States for the Southern district of Mississippi. The New York Life Insurance Company, plaintiff in error, *vs.* Charlotte Seyms, in error to the Circuit Court of the United States for the Southern district of Mississippi. The Manhattan Life Insurance Company, plaintiff in error, *vs.* R. S. Buck, executor of Charles L. Buck, deceased, in error to the Circuit Court of the United States for the Southern district of Mississippi. Held that—

A policy of life assurance which stipulates for payment of an annual premium by the assured, with a condition to be void on non-payment, is not an insurance from year to year, like a common fire policy, but the premiums constitute an annuity, the whole of which is the consideration for the entire assurance for life, and the condition is a condition subsequent, making void the policy by its non-performance.

Time of payment in such policy is material, and of the essence of the contract, and failure to pay involves an absolute forfeiture, which cannot be relieved against in equity. If failure to pay the annual premium be caused by the intervention of war between the territories in which the insurance company and the assured respectively reside, which makes it unlawful for them to hold intercourse, the policy is nevertheless forfeited if the company insist on the condition, but in such case the assured is entitled to the equitable value of the policy arising from premiums actually paid. This equitable value is the difference between the cost of a new policy and the present value of the premiums yet to be paid on the forfeited policy when forfeiture occurred, and may be recovered in an action at law or suit in equity.

The doctrine of the revival of contracts suspended during war is one based on considerations of equity and justice, and cannot be invoked to revive a contract which it would be unjust or inequitable to revive—as where time is the essence of the contract, or parties cannot be made equal. The average rate of mortality is the fundamental basis of life assurance, and as this is subverted by giving to the assured the option to revive their policies or not after they have been suspended by a war, since none but the sick and dying would apply, it would be unjust to compel a revival against the company.

Chief Justice Waite agreed with the majority, that the failure to pay the annual premiums put an end to the policies, but did not agree to raising an implied promise on the part of the companies, by the circumstances in which the policies terminated.

Justices Clifford and Hunt held the policies, like other executory contracts, to be suspended by war, and to be revived with peace.

The dissent of Justice Strong was in the following terms, making a distinction between the legal and the actual or technical life premium:—

"While I concur in the reversal of these judgments and the decree, I dissent entirely from the opinion filed by a majority of the court. I cannot construe the policies as the majority have construed them. A policy of life insurance is a peculiar contract. Its obligations are unilateral. It contains no undertaking of the assured to pay premiums. It merely gives him an option to pay or not, and thus to continue the obligation of the insurers or terminate it at his pleasure.

"It follows that the consideration for the assumption of the insurers can, in no sense, be considered an annuity consisting of the annual premiums. In my opinion, the true meaning of the contract is, that the applicant for insurance, by paying the first premium, obtains an insurance for one year, together with the right to have the insurance continued from year to year during his life, on the payment of the same annual premium if paid in advance; whether he will avail himself of the refusal of the insurance or not, is optional with him. The payment *ad diem* of the second, or any subsequent premium, is therefore a condition precedent to continued liability of the insurers. The assured may perform it or not, at his option. In such a case, the doctrine that accident, inevitable necessity, or the act of God, may excuse performance, has no existence. It is for this reason that I think the policies upon which these suits were brought were not in force after the assured ceased to pay premiums, and so, though for other reasons, the majority of the court holds; but they hold, at the same time, that the assured in each case is entitled to recover the surrender, or what they call equitable value of the policy. This is incomprehensible to me. I think it has never before been decided that surrender value of the policy can be recovered by an assured, unless there has been an agreement between the parties for a surrender, and certainly it has not before been decided that a supervening state of war makes a contract between private parties, or raises an implication of one."



The Penn Mutual Life was brought to realize the possibilities of legal interpretation, as non-forfeiture ideas were advancing, in a case before the Massachusetts Supreme Judicial Court (March Law Term, 1876, Charlotte E. Morris, *vs.* the Penn Mutual Life Ins. Co.). Policy was issued in 1873, and death of the insured occurred about six months after lapsing of policy by non-payment of premium. The Massachusetts act To Regulate the Forfeiture of Policies (1861) applied to any life insurance company chartered by the State. An act of 1872, In Relation to Certain Matters of Insurance (Sec. 7, Ch. 325, Acts of 1872,) declared that all life insurance companies doing business in the State "shall be considered and deemed to be life insurance companies within the meaning of laws relating to life insurance within this State"; and it was provided "that nothing in this section shall be held to conflict with the provisions of chapter one hundred and eighty-six of the acts of eighteen hundred and sixty-one"; and it was held by the court, upon such basis, to be "the most rational construction that we can give to the proviso," that "the provisions of the act of 1861 are applicable to foreign [non-State] insurers."

There was some litigation continuing as to special cases of suicide or drowning, and concealment or misrepresentation of health condition.

In the case of Kane *vs.* the Reserve Mutual Life Insurance Company, the District Court, holding that the relation of father and son was sufficient to found an insurable interest of a non-dependent adult in the life of his father (9 Phila., 234), the defendant having taken a writ of error, judgment was entered in the Supreme Court, March 6, 1876.

*Per Curiam:* By the twenty-eighth section of the Poor Law of June 13, 1836, the father and grandfather, and the mother and grandmother, and the children and grandchildren of every poor person not able to work, shall, at their own charge, being of sufficient ability, relieve and maintain such poor person, at such rate as the Court of Quarter Sessions of the proper county shall order and direct. Maintenance of a father or mother unable to work is, therefore, a legal liability. When we add to this the feelings of natural affection, and the desire produced by these feelings to provide for the comfort of parents, the right to effect an insurance on the life of the parent, to carry out these purposes, ought not to be denied. It would be technical in the extreme to say that a son has no insurable interest in his father's life. Poverty may overtake the father in his lifetime, and thus both father and mother be cast upon the son; or, if the father die before her, the necessity may fall at once upon the son. Why, then, should he not be permitted to make a provision, by insurance, to reimburse himself for his outlays, past or future? What injury is done to the insurance company? They receive the full premium, and they know in such case, from the very relationship of the parties, that the contract is not a mere gambling adventure, but is founded in the best feelings of our nature, and on a legal duty which may arise at any time. We are of opinion that the policy is not void. Judgment affirmed. (31 P. F. Smith, 154.)

In Common Pleas, Philadelphia, the reinsured Reserve Mutual Life defended on a point of premium payment, pleading that if premium were paid, the receiver was not at the time in the company's employ; verdict for plaintiffs. An attempt was made in Common Pleas, No. 1, by creditors, to make the stockholders of the terminated Homestead Life, of Philadelphia, responsible for the debts of the corporation, amounting to about \$12,000.

The American Life Insurance Company *vs.* Shultz. Supreme Court of Pennsylvania. Error to the Court of Common Pleas of Lancaster county.

This was an action of assumpsit brought by David Shultz against the company, to recover damages for refusal by the company to issue to him a

paid-up policy, after the payment of the third annual premium upon a whole-life policy. Elisha Geiger was the agent of the company at Lancaster, and some time in the spring of 1866, upon his solicitation, Shultz signed an application for a mutual policy for the sum of \$10,000, for the benefit of his wife; annual premium \$818. Shultz paid in cash \$409, and gave his note, payable in twelve months, for \$409 with interest. Shultz alleged that Geiger said, when he made the application, that whenever he, Shultz, would pay the third premium, he could get a paid-up policy, and get dividends out of the concern, whatever it would pay. Shultz also alleged that when Geiger brought him the policy and he made the payment, Shultz refused to take the policy because it was not according to contract. Geiger replied: "If you don't take the policy, we will keep your money; you can't get your money back; you had better go on and pay up the third payment, and then you will get your paid-up policy."

Geiger died soon after, and Mr. Gara was appointed agent. Subsequent to the first transaction, as detailed, all of the business was conducted by Gara. Shultz continued his payments. Before the third payment, however, he told Gara he would demand a paid-up policy. Written on the back of an advertising card of the company, signed by Gara, was: "After this payment you can get a paid-up policy for the whole amount you have paid." Then, after several months and repeated solicitations, Gara told him the company had changed its rules and he could not get it.

The fourth and fifth premiums were paid. After the fifth, the premiums were paid under the protest that they were paid because he, Shultz, did not wish to run the risk of forfeiture. December 12, 1873, after making eight cash payments of \$409, which, with the interest paid on the notes, amounted to \$3,869.01, he brought suit; the jury finding for the plaintiff, awarded that amount as damages for breach of the contract.

Paxson, J., delivered the opinion of the Supreme Court, May 29, 1876.

. . . . . The learned judge also erred in his instructions as to the measure of damages. The case was tried in the court below upon the theory of a rescission of the contract of insurance. But the record is not so. The declaration is in assumpsit for breach of contract in not issuing a paid-up policy. The plaintiff does not seek to recover the specific sums of money paid as premiums. It is true they are set out by way of inducement. But the damages claimed are for a non-compliance with an alleged agreement to deliver a paid-up policy. The proper measure of damages is the difference between the value of a paid-up policy and the life policy held by the plaintiff. To permit him to recover under this declaration as for a rescission, would be to give him all his premium money back again, and yet leave the company exposed to the hazard of a claim upon his policy in case of his death. I say a claim, for the declaration is not so clearly drawn as to render its interpretation easy or certain. But I regard this as the most reasonable construction of it, and in this view the measure of damages as adopted by the learned judge of the court below was erroneous.

If, however, the plaintiff goes for a rescission, he is met with the fatal obstacle of his payment of premium after suit brought. He cannot rescind the contract and yet hold it. That the payment was made under protest, amounts to nothing. There was no such duress as would give force and effect to such protest. . . . . This is a mere matter of a breach of private contract. The plaintiff either had or had not a right to rescind the contract. If he had such right, there was no reason why he should continue the payment of premiums on his life policy. It was an act utterly inconsistent with rescission. It was not induced by any legal duress or constraint on the part of the company, but was the exercise of his own free will. If he had not the right to rescind,



then the payment of premium prevented his policy from falling pending this litigation. This may have been the reason why the payment was made. It was, perhaps, a prudent course, but fatal to a rescission of the contract. The plaintiff cannot avail himself of his protest merely to try an experiment in litigation. . . . We see no serious error in the remaining assignments. Judgment reversed and a *venire facias de novo* awarded. (1 Norris, 46.)

April 19, Samuel C. Huey, president of the Penn Mutual, was elected president of the Chamber of Life Insurance.

May 2, the Corporation for the Relief of the Widows and Children of Clergymen in the Communion of the Protestant Episcopal Church adopted a premium scale for insurances payable at death, of the following terms, for the decennial years:—

<i>Insurance of \$100.</i>		
	Single Premium.	Annual Premium.
Age 20, . . . . .	\$26.70	\$1.40
30, . . . . .	31.60	1.83
40, . . . . .	37.14	2.43
50, . . . . .	43.65	3.40
60, . . . . .	52.40	5.43
70, . . . . .	60.12	8.77

In accordance with the common life insurance custom, the age of the insured was taken for the year nearest to birth-day. Such rates were adopted for an organization almost free from expense, and having a favorable mortality experience. They were, as to annual premiums, somewhat above the Combined Experience, 4 per cent. net, up to age 43—lower for the subsequent ages; single premium higher, up to age 35.

Coöperative societies reporting to the State insurance department for 1875 were twelve in number. One of the two in Philadelphia was the Mutual Protection, which had been transferred from the life insurance list to the coöperative list. A third Philadelphia society, called the New Era, was added in 1876, which proposed to assess by age graduation a little above the death percentages of the American Experience table, thus: Age 21, 0.90 per cent.; age 51, 1.54 per cent.;—entrance fees and annual dues to provide the expenses. The effect of such an assessment *en masse* upon a body of associates would be to charge age 21 0.90 per cent. for *every* death of age 51, and age 51 1.54 per cent. for every death of age 21; no age paying its *own* death cost. Under honest management, the excess paid by age 21 for the more numerous deaths of age 51 might be in some sort compensated for by the higher assessment paid by age 51 for the less deaths of age 21; but such graduation of assessment created great opportunities for fraud. An equitable assessmentism would have divided the membership into ten-year age groups, *i. e.* ages 20 to 29, 30 to 39, 40 to 49, etc., charging each group only for its own deaths, with assessment of the members of each group uniform. Coöperativism had properly nothing to do with a mortality table.

Policies of the North American Mutual, of Philadelphia, being in the course of transfer to the Penn Mutual Life, there remained in the former company but 147 policies in force at the close of 1876.

To the disreputable side of life insurance as practiced, had been added the closing up, October 25, 1876, at suit of a stockholder, of the Continental Life Insurance Company of New York, and, December 4, at suit of the attorney-



general, the closing up of the Security Life, of the same city. The Continental had \$4,199,088 of insurance in force in Pennsylvania, December 31, 1875; the Security \$728,017. Some Philadelphia policyholders of the Continental held a meeting to devise means for the protection of their interests—William V. McGrath, chairman. While a portion of these had been insured for part note premiums, others had endowment policies about maturing. In the case of the Security, a deficiency of \$2,053,824 was shown against a sworn statement surplus of \$515,034 reported for January 1, 1876. Robert L. Case, Sr., president of the Security, and Isaac H. Allen, secretary, being indicted for perjury, were each held to answer in \$20,000 bail. Theodore R. Wetmore, vice-president, gave bail in a like sum on the charge of embezzlement and grand larceny. Robert L. Case, Jr., the actuary, had decamped. The receiver of the Security notified stockholders to return dividends. The Security had paid in 1875 \$127,929.81 cash for surrendered policies, whereby the surrendering policyholders had made a profitable escape at the cost of the common policy interest, and there was no call to return paid surrender values. Suit was begun by the receiver of the Continental Life against Luther W. Frost, president, and others, such receiver being informed and believing that the parties sued had in their possession "\$622,294.65 rightfully belonging to the policyholders and other creditors of the company." The officers of the Continental had been paid present values of annuities awarded to them. They had also thus got *their* surrender values in time.

The American Popular Life, of New York, followed in disclosure, April, 1877, with some Pennsylvania life policies in force; actual assets computed at \$285,625.37, liabilities \$544,695.44. Bail in the sum of \$20,000 was required of Lambert, president, and \$5,000 of Reed, actuary; bills of indictment charging perjury being found.\* This company, despite of its "biometry," refused to pay a claim for \$5,000 on the pretext (inconsistent in its case) that while proof of death showed age 56 at date of application, the age given for the insurance was 57. A verdict in favor of the plaintiff for amount of policy with interest was rendered in December previous to the collapse.

An examination was instituted by the State insurance department into the condition of the three Philadelphia life companies actively engaged in the business. Substantially (with some exception as to the American Life) the companies' reports to the department of business and condition at close of 1876 were verified, viz.:—

	<i>Report.</i>	<i>Examination.</i>
	Surplus as to policyholders.	Surplus as to policyholders.
American, . . . . .	\$ 407,059 39	\$ 75,314 68
Penn Mutual, . . . . .	1,128,428 36	1,121,413 18
Provident, . . . . .	947,075 94	944,949 20

\* Superintendent Smyth said:—

"A claim has been made and industriously circulated by this company that under its peculiar 'system' the rate of mortality among its members is far below the average rate of other companies. But when it is known that its rate has been computed on the basis of a false issue of policies, thousands in number and millions in amount, and a false statement of incurred losses, the misrepresentation and crime is at once shown by the following briefly stated example:—

"Ratio of reported amount of death claims during 1876 to amount of insurance reported in force according to the company's statement, 0.32. Ratio of actual amount of death claims during 1876 to *real* amount of insurance in force as found by examination, 1.04."

E. W. Peet, now president of the National Life Insurance Company of the United States of America, who held the position of actuary of the Pennsylvania insurance department, acted as the examiner, associated with W. D. Whiting, of New York, actuary, and R. W. Dorphley, accountant. Concerning the American Life, the examiner's report stated that "the mortality experienced has been greatly in excess of the tabular expectation," and "the deferred premiums were but half of the amount estimated by the company," and further, "the premium loans were nearly \$110,000 short of the amount claimed by the company's ledger. It is not believed that these discrepancies were known to the company, but were the results of an erroneous method of book-keeping." Respecting the assets (\$4,809,074.97) the comment was as follows:—

*Assets.*—The condition of the assets of the company was found, upon the whole, to be good. The loans upon bond and mortgage, and upon collateral securities, showed margins to protect the loans, and the interest was paid with reasonable promptness. There are, however, some few exceptions, growing out of former loans, which, on account of depreciation from special causes, have necessitated the purchase of the properties, which yield but little income.

It was discretionary with the department to value the outstanding non-participating stock policies "at not less than  $4\frac{1}{2}$ , or more than 6 per cent." With a 6 per cent. valuing of such policies, the surplus was \$494,731.68. This 6 per cent. standard was a relic of the exploded programme of the recent joint-stock companies.

Such being ascertained as the position of the company's affairs, the managers of the American Life (which up to 1875 was the largest Philadelphia life company) deemed it now incumbent to reduce liabilities rather than make assets.

The New Jersey Mutual Life Insurance Company having an ascertained deficit of \$421,500, and transferred to a National Capitol Life Insurance Company vamped up for the occasion, was another disgrace, and gathering infamy was darkening the future of the life interest. Under date of May, 1877, the insurance commissioner of Pennsylvania thus reviewed the situation in his introductory to the life and accident division of the department report for 1876:—

The following companies of other States withdrew or were excluded during the year, viz.: American Popular, New York; Atlantic Mutual, New York; Continental, New York; Hartford Accident; Life Association of America, St. Louis; New Jersey Mutual; Pacific, California; Security, New York. Of these companies, the Atlantic Mutual, the Hartford Accident, the Life Association of America, and the Pacific Mutual, of California, withdrew from the State—the Atlantic Mutual previous to the examination which developed its insecurity. The American Popular, the Continental, the New Jersey Mutual, and the Security were excluded in consequence of their utter rottenness. The examination of the Life Association, of St. Louis, showing that it was unable to comply with the standard of this State, although solvent upon a six per cent. valuation of policies, led to its withdrawal.

Before renewing certificates for the present year, the commissioner has delayed as long as possible, in order to receive reports of examinations now in progress. In a number of instances it has been found necessary to renew the certificates of companies provisionally, with the understanding that in case they do not successfully pass the ordeal of the examination, their certificates will be annulled. This will account for the appearance in this report of the names of companies as to whose solvency more or less doubt may attach. It would not be just to exclude these companies upon mere rumor or



suspicion; and it is believed they can do no harm in the short time which must elapse before their condition is conclusively ascertained, particularly as the public are not just now in the frame of mind that would lead them to trust any life insurance company whose solvency is not satisfactorily demonstrated.

Where the satisfactory demonstration was to come from the commissioner did not say, but he referred to the "assurance of the solvency" given by one State insurance department, and some "highly satisfactory results" of examinations of another State department. The examination of a solvent company would, however, necessarily afford a "satisfactory result," and there was sufficiency in the fact that a history of a company to date, complete as to all essential points, would be a veritable presentation of it as it is. Of companies named, the Atlantic Mutual, though weakening, was essentially solvent. Concerning the Continental there were two theories in vogue—one, that the administration of Justus Lawrence, its founder, had pushed the Continental forward to a stage his successor was not capable of maintaining, and reaction could not be checked in its disastrous course. The Continental paid \$1,965,017.55 to policyholders in 1875, and it is possible that its outgo did not much exceed its income that year. Another opinion was that President Frost, by withdrawing agencies, cancelling liabilities by purchase of policies, and various expedients, had, in the two years previous to the compulsory discontinuance, improved the company's condition, and it was recuperating to an extent which promised, should there be no interference, to repair the deficient position of the office. While, however, deficient companies had recuperated, solvent companies were now to undergo a severe ordeal, and a doubtful company could not be reinstated. In 1871 the New York department examined the New Jersey Mutual Life, and pronounced it sound. In 1872 the Hope Mutual Life was to reinsure the New Jersey Mutual; the negotiations ended with the latter company reinsuring the former, with the management of the Hope Mutual taking control of the New Jersey Mutual. In 1874 *ex-officio* Commissioner Kelsey, of the insurance bureau of New Jersey, instructed Elizur Wright and William P. McMichael to make a thorough examination of the New Jersey Mutual, and these examiners credited the company with the possession of actual assets to the amount of \$1,175,236.58, being \$1,763.58 in excess of liabilities; and the company was trying to resuscitate by the issue of term policies having large margins in the loading, such policies being not only new issues and in large numbers, but partly substitutions for whole-life contracts. The Life Association of America was the centre of all sorts of bargainings attending the coalescence of failing St. Louis life insurance projects.

Such was the character of the circumstances diminishing the number of other-State life companies operating in Philadelphia.

The coöperative Mutual Protection shut up March 28, 1877, with about 700 members remaining and about \$175,000 of death claims unpaid. Its mean membership in 1876 was 1,339, average age of members 48 years, deaths 33, or 2.47 per cent.; equal to the death rate of the American Experience table at age 59; deaths 13 among the remaining members in the first quarter of 1877. The Mutual Protection had just reported "Number of classes of members" 1,



to the State commissioner of insurance. Previous to March 2, the Supreme Court of the State had decided in its favor in respect to forfeiture of "policy" by non-payment of assessment; error to Common Pleas of Lehigh county. Certificate or policy had been issued August, 1872, to Lewis Laury, in favor of his wife, Elizabeth Laury. Assessment notices were duly served upon Laury for four deaths occurring between October 21, 1872, and February 11, 1873. Laury made no reply to the notices, and died April 15, 1873, after an illness of two weeks, having paid no assessment. On the day before he died, a brother-in-law opened a letter to Laury in the post-office, and finding that it was notice of an assessment upon Laury for the death of another member, enclosed the amount of the assessment, together with an assessment on another policy, in a letter to the company in Laury's name. Two days after his death, the secretary of the Mutual Protection wrote a letter addressed to Laury, inquiring concerning the unpaid or unreported assessments, saying, "possibly you have not received the notices, or you may not have credit because the payment has not been reported to the office by the agent. An early answer is respectfully requested." The money so sent was never credited to Laury, and upon information of his death the agent of the company tendered the amount to Mrs. Laury, which was refused. The policy contained this provision:—

The above-named member or members hereby agree to forward to the company \$2.60 within forty days after notification of the death of any member of General Class B, Series I, and it is further agreed that if the said amount is not received by the company within forty days from the date of such notice, then this policy shall be null and void, and the privileges therein conferred forfeited.

A resolution of the board of directors provided that—

The secretary notify all those whose policies have lapsed from non-payment of assessments or dues, that they may be reinstated in the company by producing to the secretary a certificate of good health from any regularly graduated physician, obtained at their own expense, and the payment of all dues and assessments.

Paxson, J.: . . . . . The court below held that there was sufficient evidence to submit the question of waiver to a jury, and refused to affirm the fourth point of the defendant, which was to the contrary of the proposition. Upon this ruling the verdict was for the plaintiff below, and the company took out their writ of error, assigning the ruling of the court ground for a reversal. The Supreme Court, in reversing the court below, holds that the question of waiver was erroneously submitted to the jury, inasmuch as the evidence clearly showed that, notwithstanding the letters of the secretary, the money sent by Laury was never received by the company in the sense of payment, but was only held until inquiry could be made as to the overdue assessments. The mere fact of notice was not sufficient to constitute a waiver, especially as it was a rule of the company to allow its members, whose policies had lapsed from non-payment of assessments, to reinstate themselves upon payment of back dues and forwarding a certificate of good health. It was the object of the company (a mutual one) to retain its members, and hence the large indulgence and extreme liberality shown them. Therefore it would be unjust to turn the liberality against the company itself, by constituting a notice sent under the resolution of the company allowing this indulgence to policyholders into a waiver of forfeiture in favor of a policyholder who never paid, or never offered to pay, his dues.—Judgment reversed, and a *venire facias de novo* awarded. (3 Norris, 43.)

June 1, 1877, Actuary Henry W. Smith engaged with the American Life Insurance Company in an advisory position. He had been employed for like duties, actuarial and otherwise, in the exigencies of the Hope Mutual, of New York, and New Jersey Mutual, of Newark. Mr. Smith began his connection with life insurance in the field as solicitor, but afterwards entered the Boston office of the New York Life. In 1868, while in the field, he prepared a

pamphlet treatise, subsequently published, entitled *The Life Agent's Aid*, an arithmetical explanation of premium computation and an elucidation of the sources of a company's surplus; *i. e.*, as the difference between the mortality, interest earnings and expenses, realized, and the fundamental assumptions. The contribution plan of distributing surplus, with its annual "cost of assurance," was detailed as to the process of the figuring. He had been a frequent contributor to the columns of the insurance press of New York.

A bill in equity by Nestel and wife, Common Pleas, praying for a delivery of paid-up policies by the Knickerbocker Life, of New York—eight-tenths of original insurance—was dismissed on the ground of there being adequate remedy at law.

Thayer, P. J.: . . . . . We are unable to see that the plaintiffs are entitled to the extraordinary remedy which they seek. If the defendants have broken their contract, the plaintiffs have a perfect remedy in an action at law for damages. We cannot doubt that in such a case as this, damages afford a full and complete compensation for the injury complained of; for the proper measure of damages, if the plaintiffs are successful in their suit, will be such a sum as will purchase in a good company paid-up policies for the same amounts as those which the defendants ought, in the performance of their contract, to have given to the plaintiffs. (12 Phila., 477.)

Still the retrograde of life insurance was continuing.

## CHAPTER X.

*Returns to Policyholders tending to exceed Premium Receipts—Net Value of Policies the Rescue—Wearing out of the Non-established Companies—Scaling and Tontine as Opposites—Tontine Expectations—A "Surplus Deposit System"—Withdrawals and Exclusions from Pennsylvania—Doubtful Surpluses—Pennsylvania Business of Departing Companies—The Philadelphia Life Insurance Situation—The Liquidating North American Mutual, of Philadelphia—A Paid-up Endowment Policy demanded—A Court Rule—Policy without Effect if Premium Note be not paid—Irrational Self-Drowning not Suicide—Insurability of Creditor's Risks—The Hunter-Armstrong Policies—The Trial, Conviction and Execution of Benjamin Hunter—Pennsylvania Life Insurance, December 31, 1878—New Insurances less than Terminating—As between Cost and Resources of New Business—Proposed Concession in Rates—Surrender Values and Auction Prices of Policies—Coöperativism—The Bonus Plan of the National Life—New Office Building of the Provident Life and Trust—Mortality Experience of the Provident—The Truth of the Warranty—The Mutual Life, of New York, reduces its Rates—Applicant answers Interrogatories as explained to him—The Equitable Life, of New York, limits the Contestability of Policy—End of the Life Insurance Depression—Death of Frederick W. Vanuxem—Responsibility of Agent for False Representation—Unauthorized Representation by Agent—Damages for retaining Policy—Life Policy as Residuary Legacy—Industrial Life Insurance—The Prudential Life Insurance Company of America—The Industrial Premiums, Method and Adult Policy of the Metropolitan Life, of New York—As to Valuations of Industrial Policies—Series of Re-trials—Philadelphia Death Rates, 1880—General and Industrial Life Insurance in Pennsylvania, 1880—The Girard Life and the Pennsylvania Company, December 31, 1880—Revival of Life Annuities—The Annuity-granting Company as Premium Payer—Non-participating Life Rates of the Travelers, of Hartford—Concessions to Policyholders—Net Values and Cash Surrender Values compared—Persistency of Policyholder as Reductive of Provisional Premium—Policy Sum and Premiums payable at Death—Pennsylvania Acts of May 11, 1881, and June 10, 1881—Extensive Coöperative Graveyardism—Marriage Insurance Associations—The Lion Life, of London—The Coöperative Death Rate in 1881—Suit by the Widow of the Murdered Armstrong—The Union Mutual Life, of Maine, and the Operation of its Non-forfeitable Insurance—Policies lapsing not Non-forfeitable—Non-waiver of Forfeiture Clause—Waiver of Forfeiture Clause—The Magarge Case—Improper Substitution of Policy—A Coöperative Receiver assesses—The Presbyterian Annuity and Life Insurance Company limits itself to Denominational Lives—Its Policies and Annuities—Position and Business of the Episcopal Corporation in 1882—Final Asset Dividend of the United States Life Insurance, Annuity and Trust Company—Corporation dissolved—Pennsylvania Life Insurance at the Close of 1882—Data of Philadelphia Companies—The Philadelphia Agencies—Industrial Life Insurance—The Vanished Illusions—Formula and Experience—The Reaping is in Honor. (1877-1882.)*

THROUGH 1877, returns to policyholders were approaching the entire premium receipts, and indicated an early excess above such receipts with the companies maintaining their dividend standards; and the tone of popular opinion and the hostile public feeling did not admit of any reduction of incentives to life



insurance practice, but, on the contrary, called for new inducements. The net valuation of the policies—the reservation—was the defence in this downward pressure, the earnings of the investments making up for the comparative or financial paucity of the premiums.

The weaker or non-established companies were wearing out under the strain, and there were others whose continuance depended upon the number of years which would elapse before the business should resume a progressive character. The cost and the drain of falling back, or standing still, were in process of illustration.

Two opposite ideas did not inaptly represent the incongruities of the time, life-insurance-wise. These were Tontine and Scaling. The former the pursuit of a profit to be realized as the requisite conditions should obtain or be attained, the latter the adjustment and settlement of a loss under the conditions which had been realized. By scaling, if the assets of the deficient company were equivalent to, say 60 per cent. of the liabilities, the asset measure became the measure of the insurance; thus:—

Whole-life policy, initial age 30, for \$10,000, scaled at the end of ten years; net value (Combined Experience, 4 per cent.), \$1,079.10, reduced four-tenths, became \$647.46, or the net value of \$6,000; the insurance for \$6,000 commencing at age 40, with the net premium charge as for initial age 30, or \$40.26 less than the premium for \$6,000 at age 40, the deficiency in future net premium could be met by the scaled net value as providing present value of such deficiency. The loading could be adjusted to the position of the business.

As scaling went backward, the Tontine assumed to go forward. Two non-State companies doing business in Philadelphia presented the following tontine expectations: One company, (A) was older in tontine experience, and a larger and more successful company than the other, (B).

Whole life policy, \$1,000; age 40; annual premium, \$31.30; tontine period, 15 years.

	A	B
Tontine surplus at end of period, . . . . .	\$436.20	\$472.57
<i>Options disposing of this surplus:</i>		
1. Cash return, . . . . .	436.20	472.57
2. Annuity for life, . . . . .	40.10	47.03
3. Life policy paid up, . . . . .	1,400.00	1,500.00
4. Cash value of life policy paid up, . . . . .	697.90	(not given)

Such accumulating accrument was not and could not be guaranteed; and to present a sort of guarantee, or rather coöperation in the production of the anticipated result, a certain trust company of the city appeared upon the scene, acting as a kind of tender to this kind of life policy. A "surplus deposit system" was set up, requiring a deposit per annum in addition to the annual premium, and upon receipt of the first combined premium and deposit, this contract was issued:—

*In Consideration of the sum of ——— Dollars (current funds), to be paid annually by the said ——— to the said Trust Company on or before the ——— in each and every year, for the next succeeding ——— years, the said Trust Company does contract and agree to pay, or cause to be paid, all the premiums of ——— Dollars each, annually as they become due on a certain policy of Life Insurance, issued by the ——— for the sum of ——— Dollars, on the life of the said ———, and bearing the No. ———.*

And the said Trust Company further agrees to issue on receipt of next payment —, 187 , and on receipt of each subsequent payment, a Certificate of Deposit for the sum of — Dollars (current funds), interest at the rate of *six per cent.*, to be compounded annually thereon at the expiration of — years from the date of this contract, the whole to form a new sum, the interest of which shall be applied to the payment of the premium on the Policy of Insurance above cited.

Should default be made in any of the payments above mentioned, through death or otherwise, then this agreement shall be void, and the accumulated interest become forfeited to the Trust Company; nevertheless, in such case, all the *Certificates of Deposit* issued will be *paid at ten days' notice, without interest*, on the surrender of this contract and the Certificate of Deposit.

In this contract the depository did not assume the status of an insurer, but it illustrated its operation in this manner:—

SURPLUS DEPOSIT SYSTEM OF LIMITED PAYMENT AND ENDOWMENT TONTINE LIFE  
INSURANCE.

*Fifteen-year tontine policy, \$10,000. Age 40.*

Annual premium payable for 15 years, . . . . . \$547 30  
Certificate of Deposit (each year after the first), . . . . . 234 10

*Statement of Estimated Results.*

1. Endowment, or cash surrender, . . . . .	\$12,730
2. Or paid-up policy from insurance company, . . . . . \$15,000	
and cash from trust company, . . . . . 5,217	20,217
3. Or policy paid up by trust company, as per contract, . . \$15,000	
and cash from insurance company, . . . . . 4,730	19,730
4. Or endowment of . . . . . \$	
and retain policy at annual premium of \$ , less	
dividends, for . . . . . \$	\$

*Amount payable to Heirs in case of Death during the Period.*

AT END OF	From the Ins. Co.	From the Trust Co.	TOTAL.
7 Years, . . . .	\$10,000	\$1,404	\$11,404
10 " . . . .	. . . .	. . . .	. . . .
12 " . . . .	10,000	2,574	12,574
15 " . . . .	10,000	5,217	15,217
20 " . . . .	. . . .	. . . .	. . . .

The following companies withdrew or were excluded from Pennsylvania in 1877: Charter Oak, Hartford (scaling); Continental, Hartford; Globe Mutual, N. Y.; Knickerbocker, N. Y.; Protection, Chicago; Universal, N. Y. (scaling to overcome deficiency of \$1,005,413.05). The State commissioner said: "It has not been deemed prudent to renew the certificates of the Globe Mutual and the Knickerbocker, of New York, until they have been examined and approved by the superintendent of that State." Subsequently the New York insurance department credited each of these companies with an asset surplus. The Charter Oak had been brought to its depressed position by financial mismanagement. The Knickerbocker was declining largely from the effect of excessive mortality. The Protection was a combination of life insurance and coöperativism, accounting to the Pennsylvania insurance department as a

legitimate life insurance company,—this department accepting the valuation of its policies as term risks as made by the Illinois State insurance bureau.

These withdrawing or excluded life companies had the following Pennsylvania insurances in force, December 31, 1876:—

	POLICIES.	
	Number.	Amount insured.
Charter Oak, . . . . .	1,887	\$5,784,430
Continental, . . . . .	922	1,636,043
Globe Mutual, . . . . .	478	966,081
Knickerbocker, . . . . .	1,167	1,970,399
Protection, . . . . .	168	204,187
Universal, . . . . .	906	2,500,975
	5,528	\$13,062,115

Twenty-nine other-State life companies remained; these were insuring \$135,348,691 in Pennsylvania at the close of 1877, life insurance in authorized other-State companies decreasing in the year \$21,096,529—in part a decrease by lessening companies, as shown, and not all by lessening insurance. Through the operations of the Penn Life and the Provident, the Pennsylvania life risks in Pennsylvania companies slightly increased in 1877. This year the American Life received for total premiums, less paid for reinsurance, \$588,701.58, and paid to policyholders \$1,176,916.89. With \$337,011.18 cash paid for surrendered policies, the amount of insurance in force in this company was reduced by December 31 to \$18,451,374. The Girard Life and Trust sustaining its life policies as a branch of its general business, issued fourteen new policies in 1877, received for premiums \$53,907.81, and paid for losses under its policies (original insurances and reversionary additions) \$71,629.25. Of \$2,056,152 insurance in force at the close of 1877, \$307,378 represented reversionary additions to original insurance. The quinquennial bonus added, in 1875, \$130,000 of such reversionary values to the insurances contracted for by the policies, and with life insurance assets more than double its policy liabilities, the Girard Life had been financially built up to full capability to assume such obligations.

The North American Mutual Life remained as a liquidation account with \$58,704.00 of insurance in force, and \$83,733.40 of admitted assets; most of the \$5,665.97 paid to policyholders in 1877 (cash and premium notes) being for surrendered policies.

The withdrawn and bankrupt Guardian Mutual, of New York, had kept up a nominal organization after transferring its assets to the Universal Life; a Philadelphia policyholder demanding from the company, and refused by it, a paid-up insurance for the proportion of an endowment policy to which premium paid entitled him, a jury in Common Pleas, under the instructions of the court, Biddle, J., found that the demand, as being within thirty days after last payment of premium, was in accordance with the rules of the company. The court further instructed the jury not to assess any damages, because plaintiff had not shown the value of such paid-up policy. To this exception was taken by the plaintiff.



A Blair county court rule providing that the averments of a narr. shall be taken as admitted to be true, unless denied by affidavit, was yet to be construed as peculiar to such county. Edward L. D. Kerns died October 14, 1875. A policy of the New Jersey Mutual upon his life was dated December 4, 1874. Suit was brought under the policy, the plaintiff, Sarah C. Kerns, filing a copy of the policy, with an averment of the death of her husband, Edward L. D. Kerns, and that due proof thereof had been made. Defendant corporation, under the belief that the policy of insurance was not such an instrument as would support a judgment by default under the affidavit of defence law, filed no affidavit, and judgment was entered against it. This fact having been represented to the court in an affidavit filed, a rule to open the judgment was granted.\* One Kramer, a soliciting agent, then filed an affidavit averring that he had received the application of Kerns, who, not being able to pay the whole of the first premium of \$110.35, deponent took his note for the balance. The note was as follows:—

\$82.76.

NEWARK, N. J., April 12, 1875.

Value received, ninety days after date I promise to pay to the New Jersey Mutual Life Insurance Company, or order, at Second National Bank of Allentown, Pennsylvania, eighty-two  $\frac{7}{100}$  dollars, being for insurance premium of Policy No. 19,994, issued to me by said company, it being understood and agreed that if this note shall not be paid at maturity, said policy No. 19,994 shall be cancelled and become null and void, and be surrendered to said company, and the *pro rata* premium for the risk thereon incurred paid to them on demand.

(Signed)

EDWARD L. KERNS.

This note was then delivered to the company, which accepted the same, but it was not paid at maturity. The court entered judgment for the defendant, and plaintiff took a writ assigning such action for error.

Supreme Court, February 11, 1878. *Per Curiam*:

The note signed by the assured for the abated premium, when the policy was delivered, is a written admission that the recital of payment in the policy was not true, and therefore could not give effect to the policy, as an actual payment would. It is not only such a written declaration of non-payment, but it is a contract of even date, qualifying the terms of the policy, and an agreement that the policy shall be without effect and surrendered in case the note for the premium be not paid. It therefore superseded the policy to the extent of the agreement. It would be a harsh measure of justice to hold the company to the terms of the policy, upon a concession made to the assured for his benefit, and evidenced by his own writing of even date with the delivery, and intended by him to govern his rights. Clearly the company can not be held to the letter of a policy not paid for, and so altered for the benefit of the assured. Judgment affirmed. (5 Norris, 171.)

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\* Court of Common Pleas, Philadelphia. *Morton and wife vs. The Mutual Life Insurance Company of New York.* Opinion delivered July 6, 1878, by Allison, P. J.

We do not regard a policy of life insurance as covered by the affidavit of defence law. The promise to pay a given sum of money according to the terms of the contract, is made to depend not alone on the fact of the death of the person whose life is insured, but on a number of stipulations, the fulfilment of which cannot, under the law and the rules of practice of the courts of this city, be placed on the records in such a way as to constitute them a part of the copy of the instrument filed, so as to require the defendant to meet them by an affidavit of defence. They cannot be supplied by averment, nor will their recital in a narr. supply the deficiency. There is not even an assertion of the death of Sketchley Morton, or that notice of his death was given to the company; or that the certificate of the physician or undertaker, or householder for which the policy provides, were given to or served upon the defendant.

In many instances it would be impossible to meet the assertion of the death of the insured by a flat and positive denial; as where, if in full life, he should abscond from his usual place of abode, or secrete himself from public view. In our courts we have no rule like the one in force in Blair county. . . . (12 Phila., 246.)

In a case in the District Court, James M. Boileau insured for \$5,000 in the Connecticut Mutual Life, Boileau drowning himself in the Neshaminy creek, Bucks county, the policy words to be decided upon were: . . . "or if he shall die by suicide, or in violation of any law, then in each and every of the foregoing cases this policy shall become null and void." It was contended that Boileau involuntarily and irrationally committed the fatal act, which was therefore not suicide within the true intent and meaning of the policy. At the trial, District Court,—

The court left the question, "Was Boileau insane?" as one of fact to the jury, with the qualification that "insanity, in the sense in which they were to consider it, must not be a mere disturbance of intellect, but such a complete change in the moral and mental condition of the patient as would put an end to his responsibility as a free and intelligent being. Unless the deceased was insane in this sense, his death by his own hand was suicide, within the legal meaning of the term, and a forfeiture of the condition of the policy. It was for them to determine whether the painful ideas which had beset Boileau for many months, and which, agreeably to the evidence, were recurring with an ever-increasing force, at last so entirely overpowered his judgment as to render him unable to distinguish between right and wrong. If they found that he was not a responsible moral agent when he did the act which occasioned his death, they might find that it was not suicidal, under the terms of the contract in suit. If, on the other hand, they found that although mortified by his inability to pay his creditors, apprehensive of the future, and suffering from painful thoughts which he could not repress, he was still able to discern that self-destruction was criminal, and might have resisted the impulse to which he succumbed, it would be their duty to render a verdict for the defendant."

The jury's verdict for the plaintiff was \$5,194.50 as amount to be paid by the company. Subsequently, upon a motion on behalf of defendant for judgment on the point reserved, the court (Briggs and Mitchell, JJ., dissenting,) refused the motion and entered judgment on the verdict, which being assigned for error, the Supreme Court, May 8, 1878, affirmed the judgment. (5 Norris, 92.)

A creditor's insurable interest in the life of his debtor was, perhaps, a matter of rather more than the average legal uncertainty, even with the life policy construed as strictly a bond of indemnity. In a general way, there was a sort of theory or doctrine prevailing, that the insurability of the creditor should not reach to a speculation upon the life of the debtor.

In a case before Common Pleas, No. 2, Hare, J., the husband of Annie H. Matlack, the plaintiff, was the subject of an insurance of \$5,000 in each of two life policies—one issued by the Connecticut Mutual Life, the other by The Mutual Life, of New York. The former was taken out in the name of William Mann, a creditor of Mr. Matlack, and the latter, taken out in the name of Matlack, was by him assigned to Mann—the latter paying the premiums on both policies. Mr. Matlack was 58 years of age when the policies were issued, and after they had been in force three years, died of heart disease in the public street.

At the time the latest of these policies was taken out, the deceased, who had presented himself to the agent of the company, in conversation with the latter, was told that a surplus beyond the payment of the debt to Mr. Mann would go to the widow or family of the party insured. After the death, Mr. Matlack's family notified the company not to pay the policy, and then, as Mrs. Matlack alleged, upon a promise of Mr. Mann to do what was right, withdrew their objections. The money was paid to Mr. Mann, and Mrs. Matlack sought to recover the difference (\$2,400) between the amount of Mr. Mann's claim upon her husband, with interest and premiums added, and the amount of the policies. Her contention was, that if the facts above were true, there was a contract upon the part of Mr. Mann to pay her this money; and she further alleged that as a matter of



law, if there were no contract, the mere agreement between the parties concerning the insurance would in justice create a resulting trust in her favor to the amount of the surplus remaining in Mr. Mann's hands; and further, that Mr. Mann, at all events, had no right to the money, because his contract to insure the life of another was in the shape of a wager, which is forbidden by the law.

The defence called witnesses to prove that there was no parol contract to pay over the surplus, and to show that the interviews relied upon by the plaintiff to prove this allegation did not occur as testified to by her witnesses. It was further argued that no resulting trust in favor of Mr. Matlack's widow grew out of the agreement of Mr. Mann to insure his debtor's life; and that if the contract were in the nature of a wager, that that illegality was one that could be set up as a defence by the insurance companies, but not by the claimant in the case at issue.

Judge Hare, in his charge, said: "The position has been taken by the plaintiff that where, upon such an insurance as this, there is a surplus above the amount necessary to reimburse the person paying the premiums, the latter holds that sum in justice, good morals, and equity, for the debtor. The opposite view is taken by the other side, who say that neither in law nor in justice could such a claim be made, unless there has been an express agreement between the parties engaged." Upon this question the court, after examining into the matter and showing how, if Mr. Matlack had lived more than the time required to eat up the whole amount of the policies in the premiums paid by Mann on the life insurance, Mr. Mann could have recovered nothing for this outlay had his debtor lived and become wealthy, said, substantially, that inasmuch as Mr. Mann took all these risks, it was but simple justice that he should reap the benefit of any surplus that might accrue by the early death of his debtor. The case would be different, however, if Mr. Matlack himself had insured his life for the benefit of his creditor, and had himself paid the premiums.

After referring to the evidence on the contract, set up by the plaintiff and denied by the defendant, the court left the question of contract as one of fact for the jury. Further, as to the question of wager raised by the plaintiff, the judge said he did not feel called upon to charge the jury upon that point. He expressed the opinion, however, that this was not a case of wager upon the life of the insured party; but even supposing it were, it would not be for the plaintiff to raise that question. The insurance companies could have raised it on refusing to pay, but they had not done so. The jury gave a verdict for the plaintiff for \$2,823.63, being the difference between the amount the deceased owed, with interest, and the amount of the policies.

June 26, 1878, began the trial in Camden, N. J., of Benjamin Hunter, of Philadelphia, charged with the murder, in the first-named city, of his debtor, John M. Armstrong, also of Philadelphia. Hunter held three policies on the life of Armstrong: one, an endowment for \$10,000, payable at 70 years of age, directly to Hunter, in the Provident Life and trust; another, a whole-life policy in the Manhattan Life, of New York, for \$6,000, issued to John M. Armstrong, and transferred to Hunter; and an endowment policy for \$10,000 in The Mutual Life was also transferred to Hunter. This policy was payable to John M. Armstrong or his assigns, December 8, 1897, but if Armstrong should die before that time, to his legal representatives. Armstrong's indebtedness to Hunter was less than \$7,000. Premiums were payable to the Manhattan semi-annually; to the other two companies quarterly. The prosecution contended that the insurance furnished the motive which led to the murder.

Joseph Ashbrook, superintendent of agencies of the Provident Life and Trust, being on the stand and cross-examined, the following colloquy occurred between Mr. Ashbrook and Mr. Robeson, of counsel for the defence:—

Q. If a creditor insures the life of a debtor in Pennsylvania, how much of the policy can he collect at the death of a debtor? A. I understand the question to be: If the creditor insures the life of a debtor?

Mr. Robeson: Yes, sir; exactly as I gave it to you. A. Our apprehension would be that the insurer would be entitled to claim the whole amount.



Q. If the creditor insures the life of a debtor? A. Yes, sir; it might be different under an assignment, but where the policy is taken out originally by a creditor insuring the life of a debtor, our understanding would be that he would be entitled to the whole amount of the policy.

Q. Have you not got that just wrong? I have no doubt you can get it right. Is it not the law that if a debtor insures the life of a creditor, when the death occurs—no, I have got it wrong? A. I thought you had.

Q. I mean to say, if the debtor insures his life for the benefit of his creditor? A. If the debtor insures his life for the benefit of a creditor?

Q. Then, upon the death, the creditor collects only his insurable interest, which is only his debt? A. That is, the amount of the debt.

Q. And the rest of the policy goes to the benefit of the debtor's family? A. It would go to his estate, I presume; yes, sir. Your last question, however, was different from the first.

Mr. Robeson: I put the thing wrong; you were right and I was wrong, as all of us are often wrong; and people who are often right do not mind acknowledging themselves wrong occasionally.

Hunter was convicted July 3, and subsequently executed. The policies were then transferred by the heirs of Hunter to the heirs of Armstrong, the latter proposing to bring suit for whatever claims they might have under the policies; *i. e.*, had the contracts been voided or been matured by the murder, so far as related to them?

With the continuous retrograding of life insurance, the continuing companies were demonstrating elements of stability with ability to pass the ordeal to which they were subjected. The same number of other-State life companies were qualified for re-authorization in the State at the close of 1878 as at the close of 1877, the place of the temporarily withdrawing Provident Savings, of New York, being supplied by the level-premium Continental, of Hartford, which had been re-admitted. The Continental had \$1,052,475 of Pennsylvania life insurance in force December 31, 1878. Companies authorized to do business in the State showed the following annual contrasts in total business between receipts from policyholders and payments to policyholders:

1877.		
	Premiums received, less amount paid for reinsurance.	Payments to policyholders.
Pennsylvania companies, . . . . .	\$ 2,596,429 85	\$ 2,530,935 11
Other-State companies, . . . . .	58,877,765 06	56,815,066 64
1878.		
Pennsylvania companies, . . . . .	\$ 2,370,613 09	\$ 2,301,622 47
Other-State companies, . . . . .	54,271,517 72	57,654,552 02
Total insurance in force in all Pennsylvania authorized life insurance companies, December 31,—		
	1877.	1878.
	\$1,540,170,761	\$1,471,969,167

Lapses and surrenders of policies were now largely decreasing from the amounts of immediately preceding years, but still the new policies were unequal to the terminating ones. The ratio of expenses to insurance in force, though increasing under such circumstances, yet remained, as to the whole business, less than one per cent. annually of the insurance in force, and with most of the existing companies was within the premium loading.

It was for the companies to decide as to the net result of new business at a high cost, and the safety and resources of new business. The Mutual Life, of New York, was proposing concessions in rates as substantially cheapening the cost of obtaining new lives—a proposition which the life interest generally strongly antagonized, though the theorem that the provisional level life premium contained a surplusage for return to policyholders, in addition to what was required for policy payments, reserve and expenses, was yet held with much of its primal acceptance. Such surplusage was recognized as affording a margin permitting greater breadth of management operation, and even with such premium the greater number of life companies started had been unable to live.

An incident even in these days of dilemma evinced public recognition of the matured and the permanent value of the life policy. This was the case of parties refusing to accept surrender values offered by companies, and finding purchasers at auction for their policies at higher rates.

There were nineteen coöperatives reporting to the Pennsylvania insurance department for 1878 (two of Philadelphia), with a mean membership for the year of 25,826, having 399 deaths—a death rate of 1.54 per cent., representing a death cost alone of \$15.40 per member per \$1,000 paid to representatives of the deceased associates. The other expenditures were equivalent to 27 per cent. loading of the death cost, making the cost of each \$1,000 paid \$19.56 per member; that is, such rate of assessment was in accordance with the returns made to the State insurance department. In opposition to the coöperatives, the National Life Insurance Company of the United States presented a Bonus Plan, which was a ten or fifteen year tontine term insurance: ten-year term, age 30, annual premium per \$1,000, \$14.86; fifteen-year term, age 30, \$15.24. At end of term all accruments divided among the policies in force. It was stipulated that expenses were not to exceed yearly three-fourths of one per cent. of sum insured.

As an exception to the general life business, the Provident Life and Trust was maintaining and gaining insurance in force. A new and larger office building erected by this company near the north-west angle of Chestnut and Fourth streets, was typical of the position and progress of this office. The Chestnut street granite façade, ornate and unique in character, was a marked architectural feature of the city.

An exhibit made by the Provident of its mortality to the close of 1877 showed 64.7 per cent. of American Experience mortality; as written the death-terminated insurance was 65.6 per cent. of the expected by such mortality scale. An aggregate exposure of 46,539 years of life in the course of twelve years of time resulted in 331 deaths.

In Common Pleas an opinion by Thayer, P.J., January 4, 1879, set forth that:—

. . . . . It is clear that this insurance was made on the faith of the express warranty given by the assured that his answers were true.

That they were not true, but were false in numerous glaring particulars, which materially affected the risk, was expressly conceded and agreed to at the trial. It is



of no consequence that the answers were not fraudulently made, in view of the express warranty of their truth given by the assured. He warranted that all the answers were true, and he agreed that if they were untrue, the policy should be null and void. He not only pledged himself for the good faith of the answers, but expressly warranted the truth of them. The insurance was made upon the faith of that warranty, and cannot be enforced in the face of the admission that it was broken in several important and material particulars. It is no answer to say that it was broken inadvertently, or negligently, or ignorantly. It is a sufficient reply to all this, that it furnished, by the very agreement of the parties, the foundation of the contract, and the foundation failing, the whole superstructure falls. (*Aicher vs. the Metropolitan Life Insurance Company*, 13 Phila., 139.)

February 20, 1879, The Mutual Life, of New York, consummated its proposition to reduce its premiums, which, in different phases, had been a contention from 1872.\* Such reduction was 15 per cent. abatement on whole-life policies, and a proportionate reduction on other forms of policy. The old and the new annual whole-life rates compared as follows, per \$1,000 of insurance:—

	Old.	New.
Age 25, . . . . .	\$19.89	\$16.91
30, . . . . .	22.70	19.30
40, . . . . .	31.30	26.61
50, . . . . .	47.18	40.10
60, . . . . .	77.63	65.99
65, . . . . .	102.55	87.17

That is, the American Experience, 4 per cent. net premium, loaded 40 per cent. by the old scale, was loaded 19 per cent. by the new.

John H. McMurdy was insured March, 1875, then living in Indiana, in the Connecticut General Life Insurance Company for \$10,000, and a few months thereafter died. To the question whether he had ever had fits or convulsions, he answered "No." In a fight in 1871 at Lafayette, Ind., he had been struck on the head, and in consequence had convulsions recurring for several days. He also had convulsions in 1874 at Georgetown, Col. Suit was brought by the beneficiary under the policy, in Court of Common Pleas, No. 4, Philadelphia county. At the trial the court admitted, under objection, the report of the medical examiner of the company as to the condition of the insured's health at the time of the application. At the trial the defendant submitted this point *inter alia*:—

\* This year it was proposed to make a uniform 10 per cent. addition to the net premiums, the loadings then ranging from 21 to 40 per cent. in the different classes of policies, and the 10 per cent. loading would effect a gross premium reduction from 9.09 to 21.42 per cent. Under the urgent protest of other life companies, this was withdrawn. Then, in 1878, proposed reduction was again announced; this time taking the form of 30 per cent. abatement on whole-life policies for the first two years, and 15 per cent. on all other forms, excepting single premium and five annual premium policies. In a manner this accepted the current low mortality rate of the first two years of the policy as practically reducing the net premium for the time. Commenting on the movement, an insurance journal said: "Hence the temporary reduction is, in effect, a guarantee to new policyholders of so much dividend for the first two years in advance of realized results. Any deficiency caused thereby is to be made up out of the fund accruing through purchased policies, such procedure being upon the principle that retiring members should pay for the substitution of new members in their place. 'The third annual premium will return to regular rates, less the annual dividend then awarded to all policies uniformly, as heretofore.' It appears to be a supposition that this will reduce the cost of obtaining new lives—the present great desideratum of the business—the lowering of immediate rates being considered a sufficient inducement to the prospective insured to avert the necessity of high commissions to agents." In the controversy which ensued, President Winston, in a letter of December 2, 1878, referring to a protest of some old policyholders "against a measure now in use by this company, which permits a rebate of 30 per cent. on first and second year's annual premium on whole-life policies," showed this animus of the movement: "They [the officers of the company] believe that a life insurance company, like every other business enterprise, if it is to be preëminently successful, must go ahead. It cannot sit still and continue to make large additions to its policies by dividends." This two-year rebate plan not working satisfactorily, the reduction on all premiums above cited was substituted. In 1878 the insurance in force in The Mutual Life decreased \$3,713,996; in 1879 the insurance in force increased \$7,986,552.



If John H. McMurdy had fits or convulsions prior to the issue of the policy in suit, to wit, [as above stated,] and in the application he answered "No," when asked if he ever had fits or convulsions, then his answer was untrue and evasive, and the verdict must be for the defendant.

Answer by the court: "This is so, unless you find that such answer was responsive to the explanation given by Latson [the company's agent] touching the questions propounded in the examination. If you find that such answer was true, in view of Latson's explanations of what was comprehended in the printed questions, it will not prevent a verdict for the plaintiff."

The jury gave such verdict, and for \$11,610 in amount, and after judgment thereupon, defendant took writ of error; Sterrett, J., delivered the opinion of the Supreme Court, June 2, 1879.

We have not overlooked the fact that the insured warranted the truth of his statements and answers to questions contained in the application. This would possess all the controlling effect claimed for it, if the company had not authorized its agent to construe and explain the questions. This authority, as we have seen, is clearly expressed on the face of the application. In fact, it is made the duty of the medical examiner not only to propound, but also to "fully explain" the questions contained in form B. Surely the object of this could not have been to deceive and entrap the insured. Any intelligent applicant for insurance would infer from what is stated in the caption to the questions, that, in answering them, he should do so with reference to the construction and explanation given at the time. If the questions were explained and answered in good faith, according to the interpretation put upon them by the representative of the company at the time, there could be no reasonable objection to proving the facts and submitting them to the jury, as was done in this case. If the court had excluded the testimony complained of, and held the plaintiff below to a strict construction of a warranty according to the letter of the questions as they appear in the printed form, a grave error would have been committed . . . . . Judgment affirmed. (8 Norris, 363.)

The Equitable Life Assurance Society of the United States, now the next to the highest other-State office as to amount of insurance written annually on Pennsylvania lives, announced in the summer of 1879, that:—

The dissatisfaction which prevails throughout the community with regard to onerous conditions contained in life assurance contracts and the judicial decisions based thereon, together with the public indorsement of the liberal usages of this Society, as shown by its largely increased business, has led the management seriously to consider whether the contract could not be simplified and certain conditions erased therefrom which have been the subject of much criticism and misconception.

Accordingly it was declared:—

1. Policies will be made incontestable after three years from their date.
2. Each ordinary policy will provide for a definite surrender value in paid-up assurance, in case the policy is forfeited after three years from its date.
3. Each Tontine policy will contain a definite surrender value in cash, in case of withdrawal at the end of the Tontine period.
4. The contract will be concisely and clearly expressed, containing only such provisions as are necessary to protect the policyholders.
5. The above concessions will hereafter inure to the benefit of all policies already issued and in force, after three year from their dates respectively.\*

\* From the policy:—

And the said society does hereby further promise and agree that after three years from the date hereof, the only conditions which shall be binding upon the holder of this policy are that he shall pay the premiums, at the times and place, and in the manner herein stipulated, and that the regulations of the society as to age, residence, travel, occupation and employments shall be observed, and that in all other respects, after the expiration of said three years, the liability of the said society under this policy shall not be disputed.

And further, that if premiums upon this policy, for not less than three complete years of assurance, shall have been duly received by said society, and this policy should thereafter become void in consequence of default of payment of a subsequent premium, said society will issue, in lieu of such policy, a new paid-up policy, without participation in profits, in favor of said ———, executors, administrators or assigns, for the entire amount which the full reserve on this policy, according to the legal standard of the State of New York, will then purchase as a single premium, calculated by the regular table for single-premium

The year 1879 marked the limit of the life insurance depression. In Pennsylvania the authorized life companies issued policies in the year insuring \$19,647,518, against an insurance of \$16,805,730 in 1878. At the close of the crisis the position of the surviving companies was described in this saying: "The life companies are more in want of business than of money."

With the revival of life insurance at the opening of 1880, Frederick W. Vanuxem, an efficient factor in the Philadelphia life insurance work, died. He was of the firm of Vanuxem, Bates & Lambert, agents of The Mutual Life, of New York, and a representative of the most conservative methods of the life insurance practice.

Representations of agents were continuing to afford grounds for litigation. Personal responsibility of the agent for such was exemplified in the Orphans' Court, in a suit against the estate of E. V. Machette, deceased, who had been agent of the Mutual Benefit Life, of Newark. The opinion of Hanna, P. J., was:—

As to accountant's exceptions filed to the award to Peter McCartee, we are of opinion that the claimant is entitled to recover the difference between the amount of the premiums paid by him during the time he held the policy of insurance upon his life, which appears to have been two years, and the dividend of 50 per cent. upon said premiums, which decedent told the claimant the company he represented always paid or declared. This is the amount of damage he suffered by reason of the deceit practiced upon him. The decedent did not "guarantee" that his company *would* always declare a dividend of 50 per cent., but made a statement to claimant that "our dividend is always 50 per cent.," and by such representation, which proved false, the claimant was induced to take a policy upon his life. It is clear that the claimant would have no defence or set-off against the demand of the company for the premium he agreed to pay, and his only remedy would be against its agent personally. The decedent was its agent, and we think he would be liable to the claimant to the extent indicated.

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policies now published and in use by the society; provided, however, that this policy shall be surrendered duly receipted within six months of the date of default in payment of premium as mentioned above.

This policy is issued and accepted upon the condition that the provisions and requirements, printed or written by the society, upon the back of this policy are accepted by the assured as part of this contract, as fully as if they were recited at length over the signatures hereto affixed.

#### CONDITIONS.

1. The limits of travel and residence allowed under this contract include those parts of the settled limits of the United States and British possessions which lie between the parallels of 50° and 36° 30' north latitude; also that part of Tennessee which lies east of the Tennessee river; also those parts of Alabama, Georgia, South Carolina and North Carolina which lie north of the parallel of 34° north latitude and at the same time more than 100 miles from the Atlantic coast; also all the places within fifty miles of Atlanta, Georgia; also the settled limits of the United States which lie between the 19th and 10th degree, west longitude, and at the same time north of the parallel 32 degrees north latitude; also all the settled limits of the United States which lie west of the 10th meridian of west longitude, except Alaska; also all of Europe. Also, before July 1 and after November 1 in any calendar year, those parts of the settled limits of the United States which lie south of the parallel of 36° 30' north latitude. Travel is permitted in first-class vessels, by direct route along the coast of the United States and the British North American possessions, and between Europe and said British possessions and the United States, provided no port is entered not included at the time in the limits above allowed for travel and residence. But travel and residence of the person at whose death this contract matures, *beyond* the above limits or at *other* seasons than are above stated, without permission in writing signed by one of the officers of the society as designated below, is prohibited.

2. Engagement by the person upon whose death this contract matures in any of the following occupations or employments, without permission in writing signed by one of the officers of the society as designated below, is prohibited: Blasting, mining, submarine labor, aeronautic travel and excursions, the manufacture, handling or transportation of inflammable or explosive substances, service upon any railroad, steamboat, or other vessel or boat, military and naval service of every kind, whether as combatant or non-combatant, the militia, in time of peace, excepted.

8. The age of the person upon whose death this contract matures will be admitted by the society on due proof, but if not so admitted, the amount of insurance payable under this policy, at its maturity, shall in no case be more than the premium charged would have purchased by the society's rates in use at the register date hereof for such person's true age.



The law theory was: Contracts cannot be altered by parol statement of the agent. A claim under a policy of The Mutual Life, of New York, on the life of William P. Beatty, was resisted (Court of Common Pleas), the defendant pleading intemperate habits. Policy, after various assignments, finally vested in the plaintiff, Knight. The issue was narrowed to the question of inordinate use of intoxicating liquors, but the plaintiff, before closing his case, offered to prove that previous to his purchase of the policy, he went to the office of the general agents of the company, and informed them that he was about to purchase said policy, that the policy was to be sold at public sale, and that plaintiff asked whether, under the circumstances, he could safely purchase; that one of the firm assured him that the policy had a surrender value of \$1,115.90, which sum they would pay for it any day; that it was a good and valid policy, and would be paid without any delay upon Beatty's death, and was a good investment; and upon the faith of these statements plaintiff purchased said policy. Such offer was overruled, the issue raised not embracing such proof.

Elcock, J. [Sur rule for a new trial.] . . . . . Whilst it may be fairly questioned whether the offer would amount to an estoppel, unless the agent knew the fact that Beatty had made the untrue answer, and also knew the fact that he was guilty of the habit tending to shorten his life as alleged, and which facts were not offered to be proved, the policy, which was in evidence, contained on its face the following words: "Agents of the company are not authorized to make, alter or discharge contracts, or waive forfeitures." This was, therefore, a direct notice to the purchaser of want of authority on the part of the agent to create such estoppel, and cast the burden of proof on the plaintiff of first showing the direct authority of the agent. It was part of the contract under which plaintiff claimed. (*Wentz vs. Ins. Co.*, 29 P. F. Smith, 475.) And as it was the written policy which he purchased, he must have seen the words before he paid his money.

As the declaration signed by Beatty, before the issuing of the policy, contained words by which he guaranteed that he did not and would not practice any bad or vicious habit that tends to shorten life, and as the word guarantee in such connection is synonymous with that of warranty, we see no error in the instructions given to the jury. As only these two points are relied upon in support of the rule, it is unnecessary to consider the other reasons filed. Rule discharged. (14 Phila., 187.)

As the immediately convertible value of a life policy was contingent upon its certainty, contestableness depreciated such value, and the incontestable policy would normally become of higher grade as to market value.

In a suit in Common Pleas, No. 2, by Cornelia Kahn, widow, against her brother-in-law, for retaining a \$5,000 policy on the life of her husband, the jury gave a verdict for \$1,000 against defendant—interest and counsel fees.

William Hardy and his wife, Jane Hardy, each took out a policy of life insurance in favor of the other, and payable to his or her respective executors, administrators or assigns. Hardy died October 6, 1874, whereby the policy on his life became payable to the wife. She died June 27, 1875, and the money secured by the policy on her life was paid to the executors of her deceased husband. Hardy, by his will, devised and bequeathed to his wife all his estate both real and personal, during the term of her natural life, with full power and authority to appropriate to her own use the personal property. He further devised and bequeathed, after the death of his wife, all the rest, residue or remainder of his estate, both real and personal, to his son John, his



heirs and assigns forever; and, in case of the death of John before the death of his [Hardy's] wife, without leaving issue, then to testator's daughter Esther. John died before the wife. On a distribution of the funds in the hands of the executors of Hardy, the executors of the wife claimed the amount of the policy secured on her life for the benefit of the legatees of the wife, alleging that they were entitled thereto under the provisions of Hardy's will. The court held that the wife had only a life estate, and rejected the claim.

In the final adjudication it was held that the proceeds of the policy belonged to the residuary devisee under the will of William Hardy, the Supreme Court declaring:—

We think it would be a forced inference to assume that by authorizing her [the widow] to appropriate personal property to her own use, that the testator intended to include money which could not be obtained until after her death. He manifestly referred to such personal property as she could at any time reduce to her actual possession, and use, sell or convert the same so as to appropriate it, or the proceeds thereof, to her use and enjoyment. If, however, during her life, she had actually made any sale or transfer of the policy, thereby indicating an intention to appropriate it to her own use, a more difficult question would arise. But she did no such thing. It remained unchanged and unappropriated, and in precisely the same condition in which it had passed under the will of her late husband. The attempted devise, which could have no effect until after her death, was not such an appropriation for her use as was contemplated by her husband's will. (12 Norris, 102.)

What was called Industrial life insurance—sometimes Burial Fund insurance—which had been practiced in Great Britain for many years, and whose most conspicuous representative in that kingdom was the Prudential Assurance Company of London (established in 1848), had been introduced into the United States. It was an expedient to provide small insurances by weekly premiums for the industrial classes, necessitating a most elaborate and thoroughly organized system of solicitation and premium collection, being an instrumentality to reach and permeate through the toiling millions in the most comprehensive manner, with facile adaptation to their circumstances.

In 1879, The Prudential Insurance Company of America, located in Newark, N. J., was authorized to transact business in Pennsylvania—William D. Rogers, attorney. This office began in 1873 as the Widows and Orphans' Friendly Society of Newark, for benefits in sickness or death, on a plan of weekly payments therefor. In January, 1876, the Society was reorganized, adopting the method of the Prudential, of London, discontinuing benefits in sickness, and changing its name to that of Prudential Insurance Company of America. December 31, 1879, the Prudential had in force in Pennsylvania 1,768 policies, insuring an average per policy of \$90.

The Metropolitan Life, of New York, which, as has been stated, began in 1869 a method intermediate between this industrial form and the established life insurance method, adopted in October, 1879, usages of the Prudential, of London, with some difference in detail, writing policies from the age of 2 years next birth-day to age 70 inclusive. In the two classes of lives, Infant and Adult, for like weekly due the insurance increased under the policy with increased age in the Infant class (ages 2 to 11 next birth-day, inclusive), and from age 12 next birth-day the insurance decreased according to increasing

initial age of insured for like weekly payment. That is, while in ordinary life insurance age varies the premium for like insured sum, in industrial life insurance age varied the amount insured for like amount of premium. There was thus a decreasing annual rate or ratio for ages below 12 years, and an increasing annual rate from 12 years upwards of initial age.\* The rates of the Metropolitan were as follows:—

INFANT TABLE.

Age next Birthday.	<i>Amount (dollars) payable if the child die after Policy has been issued for the following periods (provided it has been in force at least three calendar months).</i>										
	Under 1 year.	One year.	Two years.	Three years.	Four years.	Five years.	Six years.	Seven years.	Eight years.	Nine years.	Ten years.
2, . . . . .	14	19	24	28	31	35	40	50	60	70	90
3, . . . . .	19	24	28	31	35	40	50	60	70	90	123
4, . . . . .	24	28	31	35	40	50	60	70	90	123	
5, . . . . .	28	31	35	40	50	60	70	90	123		
6, . . . . .	31	35	40	50	60	70	90	123			
7, . . . . .	35	40	50	60	70	90	123				
8, . . . . .	40	50	60	70	90	123					
9, . . . . .	50	60	70	90	123						
10, . . . . .	60	70	90	123							
11, . . . . .	70	90	123								

When the amount of insurance, according to the terms of this table, reached \$123, it was to continue at that sum during the life-time of the person insured, subject to the terms and conditions of policy.

The infant table was for five cents weekly, which was the only premium taken on lives under six years old next birthday. Between ages six and eleven, inclusive, ten cents weekly might be paid, in which case the benefits would be double those shown in this table between such ages.

\* The Prudential had in force at the close of 1879, \$3,866,913 of industrial insurance, the net value of which was counted by the New Jersey insurance department, and accepted by the Pennsylvania department, at \$94,797, or 2.45 per cent. of the insured sum; *i. e.*, as the present value of supposed deficiency in the future dues payable.

At a convention of State insurance officials held in September, 1880, a committee consisting of Julius L. Clarke, W. D. Whiting and A. F. Harvey, submitted the following preamble and resolutions:—

WHEREAS, Insurance on lives under twelve years is practically annual term insurance, both by its results and the intention of the original calculation of the risk, as shown by the fact of the increase in the amount of the insurance being correlative to the decrease in the rate of mortality, and as the premiums are paid in uniform weekly or monthly instalments, thus leaving on an average but half of a week's or month's unearned premium outstanding, which is fully offset by the amount of premium in course of collection on this class of risks; and in view also of the further fact that any attempt to value such policies by the ordinary methods in use for policies of higher ages, results in negative reserves, therefore it is expedient and mathematically correct to treat the former as giving merely annual term insurance.

The committee accordingly recommend the adoption of the following resolutions:—

*Resolved*, That for the purpose of computing reserves on policies issued at ages under twelve years, the table of mortality known as Farr's English Life Table No. 3, with interest at 4 or 4½ per cent. as may be required by statute, shall be used; that on policies issued at age 12, or over, for premiums payable weekly or monthly, the valuation shall be computed upon the net level premium for the benefit proposed, the liability being at the proportional between the terminal reserve at the end of the year preceding the year of valuation, and the end of that year due, to that portion of the current policy year which has expired; and that the valuation of policies issued *below* age 12 shall be as for renewable term policies, no charge being made for reserve upon policies running on weekly or monthly premiums, unless such premiums shall have been commuted or paid in advance, and that such term valuation shall be continued year by year until the insured shall have completed age 11; after which the policy shall be rated and valued by the tables of mortality now established by law for departmental valuations, according to the benefit proposed in the policy, dating from age 12 as the date of issue. In neither case, under this rule, shall the company be credited with outstanding or deferred premiums.

*Resolved*, That policies issued upon the plan set forth in the foregoing preamble and resolve, for sums under \$500 of insurance, should not be held subject to the provisions of non-forfeiture acts, because of the almost infinitesimal amount of the benefit thereunder; or to such laws as require notice of the falling due of premiums to be sent to the policyholder, as the frequency of these payments makes the labor and expense of such notices impracticable.



The Adult table provided for benefits at the rates of 5 cents, 10 cents, 15 cents, 20 cents, 25 cents, 30 cents, 35 cents, 40 cents, 45 cents, 50 cents, 55 cents, 60 cents, weekly. The benefits for the five cent weekly due were as follows:—

## ADULT TABLE.

*Benefits payable for Five Cent Weekly Dues.*

Age next birthday.	Age next birthday.	Age next birthday.	Age next birthday.	Age next birthday.	Age next birthday.
12, . . . 123	22, . . . 101	32, . . . 78	42, . . . 55	52, . . . 36	62, . . . 22
13, . . . 121	23, . . . 98	33, . . . 75	43, . . . 53	53, . . . 34	63, . . . 20
14, . . . 118	24, . . . 96	34, . . . 73	44, . . . 51	54, . . . 33	64, . . . 19
15, . . . 116	25, . . . 94	35, . . . 71	45, . . . 49	55, . . . 31	65, . . . 18
16, . . . 114	26, . . . 92	36, . . . 69	46, . . . 47	56, . . . 30	66, . . . 17
17, . . . 112	27, . . . 89	37, . . . 66	47, . . . 45	57, . . . 28	67, . . . 16
18, . . . 110	28, . . . 87	38, . . . 64	48, . . . 43	58, . . . 27	68, . . . 15
19, . . . 108	29, . . . 85	39, . . . 62	49, . . . 41	59, . . . 25	69, . . . 14
20, . . . 105	30, . . . 82	40, . . . 60	50, . . . 40	60, . . . 24	70, . . . 13
21, . . . 103	31, . . . 80	41, . . . 58	51, . . . 38	61, . . . 23	

For the higher dues the benefits were as the multiples of the amounts for 5 cents, viz.: 15 cents, three times the amounts for 5 cents; 60 cents, twelve times the amounts for 5 cents (age 42, rate 60 cents, benefit \$660, or  $55 \times 12$ ,) etc.

The original adult policy was of this form:—

## ADULT POLICY.

## INDUSTRIAL INSURANCE.

Address all communications respecting this policy to the Home Office, corner of Park Place and Church street, New York.

## THE METROPOLITAN LIFE INSURANCE CO.

In consideration of the representations and agreements in the application for this policy, respecting the person named and described in the first column of the schedule hereinafter contained, which application is hereby referred to and made a part of this contract; and in consideration of the payment of premiums for the amount and in the manner mentioned in the second column of said schedule, doth hereby agree to pay to the person or persons designated in Section Fifth herein, within twenty-four hours after receipt of satisfactory proofs of death of the life insured, the sum of money as stipulated in the third column of said schedule. This policy is issued and accepted upon the following conditions:—

FIRST. The person upon whose life this policy is issued shall not, except upon written permission signed by the President or Secretary of the company, engage in blasting, mining, or submarine operations, or in the manufacture of inflammable or explosive substances, or in military or naval service (except the militia when not in actual service).

SECOND. The liability of said company shall not cover death by self-destruction, whether said life be sane or insane, nor death by the hands of justice, nor in violation of law.

THIRD. No other policy in this company shall be in force upon said life at the date hereof, unless written permission to that effect be endorsed upon such other policy by the President or Secretary.

FOURTH. The policy, and the receipt book containing the entries of premiums paid on the same, shall be exhibited to the officers or authorized employes of the company at any time upon demand, and before any payment can be claimed under this policy the unpaid premiums for the current policy year may be deducted, and this policy and receipt book must be surrendered to the company.

FIFTH. The production by the company of this policy, and of a receipt for the sum assured, signed by any person furnishing proof satisfactory to the company that he or she is the beneficiary, or an executor or administrator, husband or wife, or relative by blood, or connection by marriage, of the assured, shall be conclusive evidence that such sum has been paid to and received by the person or persons lawfully entitled to the same, and that all claims and demands upon said company under this policy have been fully satisfied.



SIXTH. Agents are not authorized to make, alter, or discharge contracts, or waive forfeitures, or receive premiums on policies in arrears after the time allowed by the regulations of the company.

SEVENTH. Should the death of the insured occur while this policy is in arrears of weekly payments not exceeding the grace allowed by the company, said company's liability will be the same as if the premiums had all been promptly paid.

EIGHTH. If the representations upon which this policy is granted be not true, or if the conditions of said policy be not in all respects observed, or if said policy shall in any way be assigned, sold, mortgaged, or otherwise parted with, or if any erasure or alteration shall be made in said policy, except by endorsement signed by the President or Secretary, this policy shall thereupon become void, and whenever, for any cause, this policy shall terminate, all premiums previously paid shall be forfeited to the company.

First column.	Second column.	Third column.
Name, residence and occupation of the life insured.	Premium. — cents per week.	Amount insured. \$.....
Name, .....	Payable to the company on or before the date hereof, and a like weekly sum to be paid on or before each and every Monday subsequent to said date during the life of the person insured.	One-third of the above sum payable by the company upon the death of the life insured within the first six calendar months this policy is in force; two-thirds after six calendar months, and the full amount after one year.*
Residence, .....		
Occupation, .....		

In witness whereof the said Metropolitan Life Insurance Company have by their President and Secretary, signed, sealed and delivered this policy, numbered at \_\_\_\_\_ the city of New York, this \_\_\_\_\_ day of \_\_\_\_\_ 188 .

..... *President.*

..... *Secretary.*

NOTE.—Please examine your policy and return if incorrect. The neglect of a collector to call will not be deemed an excuse for non-payment; policyholders therefore in arrears (within the days of grace) should bring or send their premiums to the home office or the company's agent.

*Ex'd* .....

\* This graduation of payment, according to period of occurrence of death within the first policy year, was later changed as follows:—

"One-third only of the above sum payable if death occur after three months and within six months from date; two-thirds only if death occur after six months and within one year; and the full amount only if death occur after one year, except in case of consumption, when but one-half of the above amount will be payable if death occur during the first year."

There was also this stipulation: "Upon the death of the insured by accident at any time after the date of the policy, and while the same is in force, the full sum assured shall be paid."

The insured, under policy No. 475,442, died within three months from its date; death by accident not alleged. Company contended that it had not obligated itself to pay anything in event of death occurring within the first three months. (Court of Common Pleas, No. 1, Allegheny county.) Age of insured was 33 years, weekly payments 10 cents, insuring \$150. As there was no portioning nor proportioning directly expressed in event of death in the first quarter of the first year of the policy, it was decided substantially that death as occurring was not within the exception to the full payment. In the opinion of the Supreme Court affirming the judgment below, it was held that "if it was intended that no liability whatever should be incurred, unless the insured survived the first three months, it should have been expressed in language not calculated to mislead or entrap the ignorant and unwary." (5 Outerbridge, 278.)

The policy is *for* the insured, and all doubts are normally resolved in favor of the insured. This decision amplified this doctrine so that an ambiguous or obscure policy should be most strongly construed against the insurer—and arithmetical proportion. It was expressed that the full amount of the policy should be paid "only if death occur after one year." The context of the litigated and adjudicated text named less payment for death in the second quarter than for death in the subsequent half of the year. Analogically, with liberal construction in favor of the insured, this would indicate the greatest possible payment in event of death in the first quarter as being something less than one-third of the "sum of money stipulated in the schedule under the words 'amount of insurance.'" Perhaps the company more explicitly stated its purpose by afterwards adding the sentence: "No benefits will be due or payable if death occur within three calendar months from date."

Each canvasser was assigned to a defined district, under the direction of an assistant superintendent who was under the direction of the superintendent, and required to visit every family in his district, going systematically from house to house, floor to floor and room to room, repeating his visits as often as might be necessary, and to guard with all possible energy the insured from falling in arrears. At first every applicant, adult or infantile, was examined by a physician, but on account of the inherent low ratio of persistence, or continuance of the policyholders, the vast expenditure for medical examination fees was evidently exceeding the cost of any extra mortality likely to arise from dependence under certain limitations upon the agent's judgment. Accordingly the original risk inspection was modified as follows in the governing regulations:—

Medical examinations are required of all the proposed insured who are white adults, and who apply for *over* \$200 of insurance; and all who are negro or colored lives, adult or infantile, *irrespective* of the amount of insurance. White adults applying for \$200 or less, and all white infants are to be examined by the agent and not by a physician. Forms are provided in each instance on the back of the applications.

*First Class.*—Unexceptionable lives under the answers to the interrogatories and facts ascertained.

*Second Class.*—Lives in which the unfavorable circumstances are very slight.

*Third Class.*—Lives in which the unfavorable circumstances are serious and require a considerable reduction in the amount proposed as an equivalent for the increased risk of the assurance.

*Fourth Class.*—Lives where the objections are such as to render it inexpedient to undertake the assurance.

No application was transmitted without the first premium being secured in cash. The following receipt for such conditional premium as advanced was delivered by the company:—

Unless Policy is received, or money is refunded within three weeks from date, notify Company, with name of Agent and particulars.	No.....	METROPOLITAN LIFE INSURANCE COMPANY.	Deliver back this receipt when you get your Policy.
		NEW YORK,.....188	
	REC'D from .....	Dollars,	
	being payment on account of Application for Insurance made this date to above-named Company. No obligation is incurred by said Company by reason of this payment unless said Application is accepted and a Policy is issued, and unless at the date and delivery of said Policy the life proposed is alive and in sound health.		
		Agent.	

To meet the conditions of colored mortality, for the weekly dues, 5, 10, to 50 cents, two-thirds of the insurances, according to age of entrant, in the tables of infantile and adult premiums were made payable on colored lives; that is to say, the death ratio of whites under the insurance requirements was rated as approximately two-thirds of the colored mortality.

Proofs of death were very elaborate in the particulars to be detailed. The attending physician's statement was answers to the following questions:—

1. Full name of deceased?			2. Residence?		
3. Age?		4. Race: (white or colored.)		5. Occupation?	
6. Upon what date did you FIRST become PROFESSIONALLY acquainted with de- ceased? Day Mo. Yr.			7. Were you the attending Physician in deceased's LAST illness?		
8. Upon what date were you FIRST summoned FOR SAID LAST ILLNESS? Day Mo. Yr.			9. Had you ever attended or prescribed for deceased BEFORE last illness? If so, please give dates.		
10. State nature of diseases for which you attended deceased PRIOR TO LAST ILLNESS?					
11. Did deceased have any OTHER Physician or Physicians PRIOR TO, DURING, OR SUBSE- QUENT TO, YOUR ATTENDANCE? If so, please specify names.					
12. Was deceased afflicted with any CHRONIC disease?			13. If so, of what nature, and for how long?		
14. What was the cause of death? (If from disease, please state its proximate and remote cause; if in any other manner, give the medical and other facts connected with the case.)					
15. Duration of sickness? Years Mos. Days.			16. Date of death?		
17. Did deceased ever have Phthisis Pulmonalis, Consumption, or any Pulmonary trouble? If so, please specify.					
18. Please state any other material facts relating to the sickness of deceased.					

NOTE.—Claimants are bound to produce at their own expense such medical testimony as to cause of death, duration of disease, etc., as may be required by the Company. If an INQUEST be held, the Coroner's certificate and a copy of the evidence must be produced.

October 6, 1880, the fourth trial in a suit of Mrs. Emilie Moulor against the American Life Insurance Company in the United States Circuit Court closed with a verdict for the defendant company. The insured, Louis Moulor, entering a street car in New Orleans, January, 1873, shot himself in the head. At the second trial the verdict was for the plaintiff—\$11,950. At the third trial the court instructed the jury to find for defendant.—A policy (Mutual Life, of New York,) on the life of Edwin Magarge, deceased, in 1872 had lapsed if premium due and unpaid were not offset by dividend accrued, or if usage, under the circumstances of subsequent premiums tendered, did not relieve from forfeiture. This notable as a subject of a series of retrials was yet a continuing judicial inquiry, though plaintiff was non-suited, November 25, 1879, at the fourth trial.

By the report of the Board of Health the total deaths in the city in 1880 were 17,711 (excluding still-born), occurring in a population enumerated by the United States census as 847,170—a death rate of 20.91 per 1,000 of the inhabitants.



		Deaths.	Death rate per cent.
Males, all ages, . . . . .	405,975	9,075	2.235
Females, all ages, . . . . .	441,195	8,636	1.957
	847,170	17,711	2.091
Whites, all ages, . . . . .	815,362	16,598	2.036
Colored, all ages, . . . . .	31,699	1,110	3.501
	847,061*	17,708	2.090
Minors (under 20 years), . . . . .	338,619†	8,090	2.389
Adults (over 19 years), . . . . .	508,551	9,621	1.892
	847,170	17,711	2.091

The foreign-born population of the city was counted as 204,335, including possibly the unknown nativities. Of the minor and colored population fully 95 per cent. was of native birth, and the respective adult native-born and foreign mortalities may be therefore thus approximately apportioned from these death totals:—

Deaths: Natives of the United States, . . . . .	13,151		
Foreign born, . . . . .	3,958		
Unknown nativity, . . . . .	602		
	17,711		
		Deaths.	Death rate per cent.
Adults: Native population, . . . . .	321,147	5,213	1.623
Foreign born, etc., . . . . .	187,404	4,408	2.352
	508,551	9,621	1.892

We give the population and deaths by age groups. In this table the groups "80 to 90" and "90 and above" are our own division as to the "Living," our source of information but giving the population of the city for "80 and over" as 4.73 in the 1,000. We have already referred to the uncertainty of any enumeration of nonagenarian population, nineteen-twentieths of which may be regarded as always below 95 years, including some actual octogenarians.

1880.

AGES.	Living.	Dying.	Death rate per cent.	Combined Exp.	American Exp.
Under 5 years, . . . . .	91,499	6,594	7.207	. . .	. . .
5 and under 10, . . . . .	86,200	671	0.778	. . .	. . .
10 to 15, . . . . .	80,524	322	0.400	0.682	0.754
15 to 20, . . . . .	80,396	503	0.626	0.707	0.769
20 to 30, . . . . .	175,830	1,834	1.043	0.774	0.805
30 to 40, . . . . .	129,803	1,657	1.277	0.921	0.893
40 to 50, . . . . .	91,384	1,474	1.613	1.222	1.114
50 to 60, . . . . .	59,801	1,356	2.267	2.120	1.831
60 to 70, . . . . .	33,827	1,360	4.020	4.242	3.875
70 to 80, . . . . .	13,860	1,174	8.470	8.883	8.748
80 to 90, . . . . .	3,480	651	18.701	17.952	19.707
90 and above, . . . . .	566	115	20.318	38.254	52.027
	847,170	17,711	2.091	. . .	. . .

\* Not including 109 Chinese, Japanese and Indians.

† Population by age-groups computed from the table of Dr. Landsberg, of Baltimore, obtained from the superintendent of the census.

The Philadelphia life companies issued 3,726 policies in 1880, insuring \$10,183,292, of which 1,916 policies and \$5,349,925 insurance were on Pennsylvania lives. The other-State companies issued 83,717 Pennsylvania policies, insuring \$21,201,563. In the latter number of policy issues the progress of industrial life insurance was shown; the three companies issuing such policies in the State presenting the following account:—

	Policies issued in Pennsylvania in 1880.		Policies in force in Pennsylvania December 31.	
	Number.	Amount.	Number.	Amount.
John Hancock Mutual, Boston, . . .	14,272	\$1,424,517	8,384	\$1,390,629
Metropolitan, New York, . . . . .	32,849	3,162,333	22,414	2,852,263
Prudential, Newark, . . . . .	30,849	2,581,034	17,077	1,434,639

So the far-reaching work of the industrial method was disclosed, with its labor to keep in force a policy once issued. Industrial losses incurred in the year in the State, \$78,453.

For its eighth quinquennial bonus—*i. e.* for the five years ended with 1879—the Girard Life declared \$70,006.50 of reversionary additions to its policies in force. The surrender of life policies normally decreases in ratio with the increase of average duration of policies in force; the Girard issued five new policies in 1880, lost sixteen by death, one by expiration of term, nineteen by surrender and lapse. With a mean of 663 policies in force, this represented a decrease for the year of 5.4 per cent., with the time of the ultimate elimination of the risks contingent upon increased rate of mortality and decreased terminations otherwise. With the reversionary additions of 1880, there were \$1,664,480 of insurance outstanding December 31, 1880. With the reversionary additions of the seventh quinquennial bonus, there had been \$2,292,074 of insurance in force at the close of 1875; such decrease in five years of \$627,594 (notwithstanding reversionary additions), or 27.4 per cent., was thoroughly normal, being in no part the “working out” of any of the risks by induced surrenders. In these same five years, however, the residual insurances of the Pennsylvania Company for Insurances on Lives and Granting Annuities, with the insured of greater age and the policies of greater duration than those of the Girard, decreased but 24 per cent., without the original total being in anywise sustained by reversionary additions. Here is some indication that the principle of “the survival of the fittest” holds some sway in the ultimate determination of any given body of insured lives, having the effect of lessening the death rate of the highest ages in such case, as compared with the general mortality of such ages. (Though of the 108 policies in force in the Pennsylvania Company at the beginning of 1880, there were three which terminated by death of the holders in the year; next year, of the remaining 105 policies, only one terminated by death—none otherwise.)

The life annuity—the elder monetary practice resting upon life contingencies—had largely disappeared with the development of life insurance, though it had been continued by life and trust companies which had ceased to issue life policies. With the reduction in rate of interest earning, there were some indications of a revival of life annuities as an adjunct of the life business. It was, however, but an incidental part, not attended with the elaborate inculcation

which had induced the large acceptance of the life policy, being left to the uninfluenced volition of those desiring such a provision, and was of slow and irregular accrement. The American Life still maintained without any reduction, with its life insurance risks declining, the annuity payments it was making in 1873; in fact, they had slightly increased, amounting in 1880 to \$1,530. In 1880 the newest of the life and trust companies, the Provident, of Philadelphia, paid to annuitants \$8,535.70, against \$3,139.43 in 1873. The growth of life annuities in the Girard Life Insurance, Annuity and Trust Company from 1873 was as follows:—

	Received for Annuities.	Paid to Annuitants.
1873, . . . . .	\$19,000 00	\$ 812 24
1874, . . . . .	395 20	1,684 36
1875, . . . . .	400 00	1,622 68
1876, . . . . .	1,866 00	1,672 68
1877, . . . . .	400 00	1,772 68
1878, . . . . .	10,000 00	1,728 68
1879, . . . . .	9,450 00	3,372 68
1880, . . . . .	12,412 48	4,590 61

The annuity-granting company is, in effect, as has been shown, a premium payer for a life insurance for its own account. Net life premium for age 40, for insurance of \$1,000, Combined Experience, 4 per cent., is \$23.68; the present value of which is \$381.04. Considering an annuity of \$100, granted by a company, at age 40, upon such mortality and interest basis as annual premium, it would have a present value of \$1,609.29; but the purchase price, without any marginal addition for expense, of a life annuity of \$100, beginning at age 40—such first premium being paid at end of year—is \$1,509.29. This sum is an earning of the office upon the death of the annuitant, and with the annuity price yielding 5 per cent. interest to the office (\$75.46), the office is insured \$1,509.29 upon the life of the annuitant for its own premium payment of \$24.54 per annum; the actual net premium for such insurance—death and endowment cost—being \$35.73, which, loaded but 20 per cent., would be \$42.88.

As a life insurance office, the Travelers, of Hartford, was “selling insurance rather than future dividends.” It had in force in Pennsylvania, December 31, 1880, 1,188 life policies, insuring \$2,147,202. In the elimination of dividends it eliminated the greater portion of the loading from its gross premiums. It was a corporation of a State whose life insurance standard was Combined Experience, 4 per cent., and its gross premiums compared with the net premium of such standard as follows, per \$1,000 of insurance:—

*Whole-Life Insurance—Annual Premium.*

	Net.	Gross.
Age 20, . . . . .	\$12.95	\$13.70
30, . . . . .	16.97	17.55
40, . . . . .	23.68	24.35
50, . . . . .	35.78	37.15
60, . . . . .	57.56	63.20

*Ten-Year Endowment.*

Age 20, . . . . .	\$83.87	\$88.40
30, . . . . .	84.54	88.90
40, . . . . .	85.76	89.85
50, . . . . .	89.66	93.05
60, . . . . .	99.47	102.95



*Thirty-Year Endowment.*

	Net.	Gross.
Age 20, . . . . .	\$22.68	\$23.80
30, . . . . .	24.21	24.95
40, . . . . .	27.92	28.30
45, . . . . .	31.63	31.85

This exemplified the estimate placed upon the provisional mutual or "profit-participating" premiums as a source of dividends. In the premium construction of the Travelers there was manifestly the assumption of a saving in death cost to make up for the deficiency in the expense provision, aided by interest gains above the computed rate—such gains being, in this case, a recourse of the company, instead of a surplus divisible among policyholders. The Travelers was showing itself to be an exception to the non-success of offices dealing exclusively in the stipulated non-participating premium.

Various modes of concession to the insured now served to give new energy to the life insurance movement; the Equitable, of New York, declared that from January 1, 1881, its incontestable policies would be paid immediately after receipt of satisfactory proofs of death, "with a valid and satisfactory discharge from the parties in interest"; and such relinquishment of the customary 60 or 90 days' intermission was to be without any discount for the period omitted.

The Manhattan, of New York, having prepared scales of cash surrender values of policies, gave notice that surrender was to be made "on the day of the expiration of the policy by non-payment of the succeeding year's premiums." In the case of whole-life annual premiums so discontinuing after payment of third annual premium, the values were tabulated; other values could be ascertained on application to the company.

Cash surrender value of whole-life policies per \$1,000 of insurance proposed was as follows, as compared with net value, American Experience, 4½ per cent., for the ages cited:—

Age at issue.	Three annual payments.		Five annual payments.		Ten annual payments.	
	N.V.	S.V.	N.V.	S.V.	N.V.	S.V.
25, . .	\$17.09	\$12.55	\$32.75	\$21.83	\$73.08	\$48.72
55, . .	76.95	51.30	129.77	86.51	264.19	176.13

While technical propriety might call for increased proportion of net value as surrender value as the initial insured age advanced, and further, as the successive premiums paid on each policy augmented, there was yet to be considered the question whether such enhancement of proportion would not be promotive of increased discontinuance of insurance.

A life insurance company is not a savings bank with withdrawable deposits. Its business is to continue the insurance to the normal termination of the contract, and to discountenance whatever tends to bring such contract to an abnormal termination. New lives cost money to obtain, and the idea grew that the outgoer, as diminishing the collective resources of the insured body (subjected, as a whole, to conditions of average), should pay the cost of providing a successor.

The *practice* of life insurance had differentiated it from the results prefigured by mathematical formulæ, the economics dominating the mathematics. In the case of the Penn Mutual Life, its dividend history evinced that it had been enabled to reduce the provisional life premium about 70 per cent. with the policyholder staying thirty-three years with the company, and 50 per cent. with the policyholder remaining twenty years with the company. This is to say, that while old lives are not so currently compensatory to the aggregate body of the insured as new ones, the oldest policies reap the highest results of the company's accruments; and such survivorships are in equity entitled thereto as bearing the heat and burden of the day, paying the claims of the early dead, filling up the breach made in the security by surrenders and lapses. Life insurance rests on survivorship; in its inherent nature it antagonizes lapses and surrenders;—through the working of the years, through the far-reaching results of processes, an inevitable tontinism pervades it. It blesses him who endures to the end as well as the early beneficiary.

Projects for return of whole gross premium to the payer were not yet abandoned. A new plan appeared temporarily in Philadelphia in 1881, insuring for a term of years—paying policy sum in event of death, or maturing as an endowment at the end of the term—with the whole amount of gross premiums returned.

Two laws of 1881 in relation to life insurance were, one designed for the protection of the policyholder, the other for the protection of the company. The former had been brought about by the predominance of the application—a collateral of the express policy—in the contract; the other was designed to array the chance of committing a legal misdemeanor against any agent making commission irrespective of the character of the risk placed in the company, and was further designed to secure at least an honest medical report.

#### An Act relating to Life and Fire Insurance Policies.

SECTION 1. Be it enacted, etc., That all life and fire insurance policies upon the lives or property of persons within this commonwealth, whether issued by companies organized under the laws of this State or by foreign companies doing business therein, which contain any reference to the application of the insured or the constitution, by-laws or other rules of the company, either as forming part of the policy or contract between the parties thereto, or having any bearing on said contract, shall contain, or have attached to said policies, correct copies of the application as signed by the applicant, and the by-laws referred to; and, unless so attached and accompanying the policy, no such application, constitution or by-laws shall be received in evidence in any controversy between the parties to, or interested in, the said policy, nor shall such application or by-laws be considered a part of the policy or contract between such parties. (Approved May 11, 1881.)

#### An Act to punish Frauds upon Life Insurance Companies by Agents, Physicians and others.

SECTION 1. Be it enacted, etc., That any agent of a mutual, stock or coöperative life insurance company or association, physician or other person whatsoever, who shall knowingly make, or be concerned or interested in making, any misrepresentation or false statement, for the purpose of securing from any mutual, stock or coöperative life insurance company or association a policy of insurance or certificate of membership upon his own life, or the life of any other person, shall be guilty of a misdemeanor, and upon conviction thereof be fined not exceeding one thousand dollars, or undergo imprisonment not exceeding one year, or both, in the discretion of the court. (Approved June 10, 1881.)



As coöperativism was now developed into a very extensive graveyardism, the act of June 10, 1881, so far as it related to the coöperative societies, was a piece of superfluity.\*

Two hundred and fifty-nine charters for coöperative death-assessment companies had been issued from the office of the secretary of the commonwealth of Pennsylvania before the close of 1881, but Governor Hoyt now notified Commissioner Forster that no more letters patent for such would be issued, unless under direction of the court having jurisdiction. Marriage insurance associations—concerns of the same character as the “death-rattle” coöperatives—being before the Court of Common Pleas, No. 4, for charters, Judge Thayer refused, concurring with the opinion of Judges Henderson and Pearson, of the Twelfth Judicial District of the State, that such associations are not beneficial societies within the meaning of the act of 1874, and contrary to public policy in being demoralizing through placing the marriage contract

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\* At the opening of the August session of the court at Harrisburg, Judge Pearson, in the course of his charge to the grand jury of Dauphin county, made this reference to the enactment:—

“In the first place I will advert to an act of assembly passed last winter, an act not as full, strong and clear as it might have been, but which still furnishes some redress for this grievance. You are probably aware that in this county, as well as other neighboring counties, there exist what are called ‘graveyard insurance companies,’ persons who insure the lives of others when they believe they are about to die. The insurances are not asked for until it is believed the persons will not last long. Then they solicit them, or use their names to get insurance for large amounts, maybe sometimes for thousands of dollars upon the lives of persons not expected to live a month. They take a physician to examine them, and the physician certifies to the company that they are good risks, well knowing that the certificates are false, and others knowing the same thing. This when the person whose life is insured does not know what it is about. In that way insurance is obtained frequently on lives to a very large amount, so that when they die they are found to be loaded down with risks. There are instances where such persons have been put out of the way by violence or other improper acts or measures, preparatory to the recovery of the insurance. The frauds are practiced in various ways. I will call your attention to several. They will go to some poor, decrepit old persons, worn out with the weight of years upon them, and ask them to insure their lives, and say: ‘We will give you five dollars to insure your life.’ They offer five dollars for each company, and they will get them insured in that way for from \$5,000 to \$50,000, and to do this they will call some physician in who is dishonest enough to certify, when there is strong evidence against him certifying at all, the person being sometimes 80 or more years of age, not likely to live long, and not a suitable subject in any event; getting the papers out and taking them around and dividing them up and selling them, and thus fixing them off on an honest and unsuspecting man. Thus, by the payment of a few dollars to these persons who are not likely to live long, they secure thousands of dollars almost immediately.

“Now, this system is all wrong. If the officers of the insurance company know it is carried on, they are as guilty of the frauds as anybody else, and they ought to be indicted. If the agents go around in this way and obtain insurance, they ought to be indicted. When a person obtains an insurance and the physician says it is a good risk when the person is not likely to live any length of time, and that is manifest, the physician ought to be indicted. The insurance company, or the managers or members of the company, may not be guilty of the crime, and they are not if it is not known to them. Sometimes they are not cognizant of it, and it is confined to the agent and physician, or persons in that situation. When the wrong is committed, one or more are guilty; and if proved guilty of this crime of wrong-doing, they can be found guilty of conspiracy. . . .

“The act of assembly does something towards the stopping of these evils. But the true course of that act should have been to declare all such policies void, and to prohibit the insuring of life in any event, except where the one in whose favor the insurance is taken is otherwise interested in that life. A man might insure the life of his mother or father, or the life of his son; or a creditor has the right to insure the life of a debtor, but not for more than the amount of the debt. But these persons are insured by those who are in no way related to them, and the policies often amount to thousands of dollars in favor of those to whom they do not owe a penny. They promise to give the insured five or ten dollars. All these things, gentlemen, are strong evidence of conspiracy at common law, and they are evidently in violation of the statute. The common law is broad enough to cover anything of this kind.

“Then to pass an act in the form I have read is rather useless. Though it did no harm, it permits the carrying on of the wrong in almost the same manner as before. But, of course, if they do violate this law, they are subject to indictment. If they do not violate it, but carry on the evil in concert—as it is common talk that they are doing—it is the duty of the district attorney to draw up bills of indictment, either voluntarily or by your direction, and if you find the facts to be as I have given them, it is for you to find true bills, and for the jury to find them guilty of conspiracy at common law; for each of the persons concerned in this wrong is guilty of violating the law. We do not expect you to find bills without evidence, or send out for persons and papers; but a prosecution must be commenced, and then the case can be acted on. Our main object is to caution the public against buying these policies, as not a penny can be recovered by any one on the death of the subject insured, if the company chooses to make a defence. The whole object is to defraud, and our object is to caution the people against being defrauded.”



upon a speculative basis. "We have given," say the judges of the Twelfth district, "the purpose and design of these associations, and those of a similar character, our serious consideration, and especially those out of which speculative life insurance has arisen, which is near akin to the moving principle of 'marriage associations'; in the one case the holder of the certificate realizes upon his investment or risk at the death of the subject, in the other at the time of marriage. There is a temptation here—there may be a victim in either case."

Though foreign fire and life offices had been licensed to do business in Pennsylvania, the authorized entrance of the Lion Life, of London, into Philadelphia was the first instance of such licensed entrance by a distinctive foreign life office (apart from the uncertain Provident Royal, of London). J. B. Thomas was appointed general agent for Pennsylvania of the Lion Life. The Lion wrote eight policies in Pennsylvania in 1881, insuring \$17,000; premiums collected, \$158.60.

Numerous coöperatives beginning in the State in 1881, added to earlier enterprises of this character (only four in all in Philadelphia), showed an aggregate membership, December 31, 1881, by the Pennsylvania department report, of 80,862—membership at the beginning of the year 50,075. Deaths in the year were 9,921, and, with the year's mean membership 65,469, the death rate was 15.154 per cent. In the preceding official year of the Pennsylvania lodges of the Order of Odd Fellows, the death rate was 1.12 per cent. In 1879, sixty-nine lodges in the State of this order, which had a continuous existence of thirty-five years, had a death rate of but 1.57 per cent.

The widow of the murdered Armstrong, appointed administratrix to his estate, brought suit under the assigned endowment policy of The Mutual Life, in a court of the State of New York, which suit, on motion of defendant company, was removed to the Circuit Court of the United States.\*

At the beginning of 1882 the Union Mutual Life, of Maine, had been represented in Philadelphia for twenty-nine years. It paid in the previous calendar year claims under twenty-two Pennsylvania policies amounting to \$51,459.68; premiums collected, cash \$36,762.19, notes \$2,486; total Pennsylvania premium receipts in the year, \$39,248.19. Mean number of policies in force in 1881 was 1,039, mean amount of insurance in force \$1,913,143; claims paid in Pennsylvania in the year, therefore, 2.12 per cent. of number of policies and 2.69 per cent. of amount insured. This office was the special exponent of the Maine Non-Forfeiture law, passed February 7, 1877, and all policies which had been issued by the Union Mutual subsequent to April 1, 1877, and in force three years, were entitled to the benefits of such enactment.

\* This court ruling out the offer of the defence to prove that the policy was obtained to defraud the company, and that Hunter intentionally caused the death of Armstrong, instructed the jury to divide the policy into its death payment and endowment parts, and that while the latter was assignable by Armstrong, the former, as vesting in the "legal representatives" of Armstrong, was not by him assignable. (To this defendant excepted.) The verdict was for the full amount of the policy with interest—\$10,571. Judge Wheeler overruled motion for a new trial. Hence, whether the Circuit Court's theory of assignment was tenable or not, became matter for the United States Supreme Court to pass upon. If the assignment conveyed the *whole* Armstrong interest to Hunter, the murder would necessarily defeat recovery under the policy.

This illustration was given of the operation of non-forfeitable insurance as time extension, in the case of an endowment policy issued at age 30 and maturing at age 85, for \$10,000, annual premium \$227.80—all cash:—

*Insurance \$10,000, beginning at age 30, three or more annual premiums paid, death occurring on the last day of the extended time.*

Discontinuing premium payment at	Insuring after discontinuance of premium payment.		Death payment \$10,000, less deductions for unpaid premiums and interest thereon in the extended term insurance.
	Years.	Days.	
Age 33, . . . . .	2	221	\$9,229 00
34, . . . . .	3	183	8,956 72
35, . . . . .	4	148	8,657 42
36, . . . . .	5	118	8,571 66
37, . . . . .	6	91	8,479 38
38, . . . . .	7	52	8,384 88
39, . . . . .	7	357	8,291 30
40, . . . . .	8	267	8,201 50
41, . . . . .	9	148	8,117 25

The reductive effect of premiums as unpaid in the foregoing within the extended time of the insurance was diminished by restricting the charge for unpaid premiums to the amount of five non-payments after age 35 (\$1,139), with interest accruments thereon. Thus, discontinuing to pay at age 41, insurance extended nine years and one hundred and forty-eight days, ten annual premiums unpaid (\$2,278) within this term, total deduction for unpaid premiums and interest thereon from \$10,000, in event of death, would be only \$1,882.75; and so the insured would receive in such case \$5,611.45 more than he had paid for premium before lapse.

As the companies were busy with plans for the accommodation of the non-payer of premium, and devising concessions to him\*—in some instances giving him advantage over the persistent premium-payer—the courts were in a growing dilemma as to what to do with the delayer of premium payment. In April, 1882, Judge Ludlow, Common Pleas, entered a non-suit in a proceeding to recover back premiums on a policy declared lapsed by the American Life Insurance Company for non-payment of premiums. The insured, Rufus T. McAden, was a resident of North Carolina, and premium falling due August 22, 1879, was tendered four days afterwards, and refused. In entering non-suit, Judge Ludlow said that in view of the doubtful condition of the insurance law of the State, which had come to be at variance with that of every other

\* Popular ideas on the subject of non-forfeiture were shown by the facts of a case in Common Pleas (Smith vs. National Life Ins. Co.), though the decision reached was independent of such condition. A claim was made for paid-up insurance, life policy, upon the basis of proportion of premiums paid to premiums to be paid, as in the case of a term endowment policy. The policy lapsed, or was forfeited by default of premium payment. Plaintiff was non-suited, and rule to take off non-suit was discharged.

"A pamphlet of the company declared that all policies, after payment of the premiums for two years, were non-forfeiting; and upon the faith of this statement the plaintiff made application for insurance, to continue for his whole life, the premiums to be paid in fifteen annual instalments. When the policy was delivered to him by the agent, the latter pointed out a clause referring to the issuing of another policy after payment of two annual premiums; and the plaintiff said that he understood it to be a non-forfeiting policy, to which the agent assented. The premiums were all paid promptly for ten years, after which default was made, and a paid-up policy for ten-fifteenths of the amount of the insurance demanded. This the defendant refused, on the ground that the original policy had lapsed. . . . .

"Demand for the non-forfeiting policy should have been made before default in payment of premiums."  
(15 Phila., 199.)



State in the Union, he could only follow the ruling laid down in the case of *Thompson vs. the Knickerbocker Life Insurance Company*, recently decided by the Supreme Court of the United States, Justice Bradley saying:—

The custom of the defendants not to demand punctual payment of premiums on the day they fell due, but to give thirty days' grace, was a mere matter of voluntary indulgence on the part of the company. It cannot be justly construed as a permanent waiver of the clause of forfeiture, or as implying any agreement to waive it, or to continue the same indulgence for the time to come. If it were otherwise, an insurance company could never waive a forfeiture on occasion of a particular lapse without endangering its right to enforce on occasion of a subsequent lapse. Courts do not favor forfeitures, but they can not avoid enforcing them when the party by whose default they are incurred cannot show some good and stable ground in the conduct of the other party on which to base a reasonable excuse for the default. No such ground has been shown in this case, for the non-payment of a premium may incur a forfeiture of the policy, or may not, according to the circumstances.

But, April 29, Judge Elcock refused a new trial in the suit of David C. Blackiston (insured at Chestertown, Md., in 1866,) against the American Life, in which an intelligent jury had awarded \$774 to the insured, whose policy was declared forfeited; the amount awarded being the total of premiums paid, less a deduction for cost of insurance while risk continued. The company's agent at Chestertown had for five years received overdue premiums. Blackiston made his last payment (due August 8) in September, 1875, receiving from the agent the receipt issued from the main office. Upon reporting this delay in payment, the company, claiming forfeiture of the policy, instructed the agent to return the premium, and the agent thereupon went to Blackiston and asked to examine the receipt, and, having so obtained it, he retained it, and returned to Blackiston the amount of the premium with the remark that the company would not accept it.

Elcock, J.: . . . . . The defendant claims a forfeiture upon the clause inserted in the conditions of the policy, that "agents are not authorized to make contracts for the company, nor to write upon the policy, except his signature, when necessary, to the first receipt of premium, nor to waive forfeiture of the same." On each receipt given by the company there was printed the following notice: "It is understood and agreed, that unless the next premium shall be paid on or before the day it becomes due, at 12 o'clock noon, the policy will be forfeited and void." It is, however, claimed by plaintiff that a general custom existed for insurance companies, notwithstanding such conditions as those expressed in the policy, to accept premiums after they fell due, . . . . . and that, consequently, the forfeiture contemplated by the terms of the policy is waived. . . . . Nor can the defendant with any grace say its agent had no power to grant this extension of time of payment, when it accepted them long after the time they fell due, and thus ratified what is now claimed as the improper act of the agent. Why, then, was this last payment any worse than numbers of the former ones? And if return one of them, why not return all, when they all stand alike? . . . . . But it is contended for the defendant that it must be shown affirmatively that, independent of the particular transactions between the plaintiff and defendant, defendant adopted this custom; . . . . . to admit such a proposition would be to abolish the necessity of any proof of a general custom in any case, and leave the law to exist upon proof of the particular custom between the parties, a subject always determined necessarily when the question of the existence of a custom is questioned. . . . . The notice printed upon the receipts given by the defendant are evidence of notice by the company, but as they are not stipulated for in the policy, and as they cannot be construed as of more effect than a condition attached thereto, and as their effect had previously been waived by the defendant accepting the premium after due, such evidence becomes of little importance to the defendant. (15 Phila., 315.)

Again the Supreme Court of the State sent back for re-trial the most noted of all overdue premium cases (*Girard Life Ins., A. and T. Co., administrator of Edward Magarge, vs. Mutual Life*). At a trial in Common Pleas,



No. 4, in December, 1881,\* the defendant company offered to prove that after the policy in suit had been issued, and for some time previous to January 14, 1871, when the quarterly premium was due, the health of Edward Magarge had become impaired by use of intoxicating liquors, and that, January 14, 15 and 16, 1871, Magarge was, from the use of liquor, not able and did not present himself at the office of the company, though requested by the agents of the company so to do January 16, 1871. The offer of such evidence was rejected. The court said that the question was not what particular reason or notice existed at the time for the refusal of the premium, but what was the course of business which had been theretofore established by the company. Further:—

The second question which is presented for your [the jury's] consideration arises out of these facts: By the books of the company it appears that in a certain year, to wit, 1871, the following entry was made, among others: "Cash value, \$67.72." You will remember the quarterly premium was \$51. It is also in evidence that the entry above specified was not placed upon the book until the very end of February or the beginning of March of that year, certainly after the 14th of January, 1871. It is also in evidence that from time to time dividends were declared upon the several policies issued by the company, and were carried at some time to the credit of the several policyholders. It is the province of the jury to decide when the entry made in this case was made, and to what period of time it applies.

The policy contained the following conditions:—

If the said premiums shall not be paid on or before the days above mentioned for the payment thereof, [April 14, July 14, October 14, January 14,] at the office of the company in the city of New York (unless otherwise expressly agreed in writing), or to agents when they produce receipts signed by the president or secretary, then in every such case the said company shall not be liable for the sum assured, or any part thereof, and this policy shall cease and determine.

The verdict and judgment were for the plaintiff in the sum of \$16,875.18 (policy \$10,000); defendant took writ of error, assigning for error the rejection of its offers of evidence, etc. Eighth assignment of error was as follows:—

If the jury determine that although the dividend was not declared until long after the day upon which the premium fell due, which was not paid, viz., 14th of January, 1871, yet if it represents the money made before the 14th of January, 1871, or, in other words, if the jury find that the sum of \$67.72, entered upon the books of the company, represented the fund realized as a dividend to policy No. 28,375, and was earned and in the possession of the company on January 1, in the year 1871, then I instruct you, in the language of the Supreme Court: "It would be inequitable, and against the policy of the law, to permit an insurance company to forfeit a life policy for non-payment of a premium, when such company has in its possession the money of the assured to an amount covering the premium, and which it has power to apply to its payment."

Paxson, J.: . . . . . We think it would be carrying the rule beyond any recognized principle to hold that profits earned, but not declared as dividend or otherwise, could be treated as funds in the hands of the company applicable to the payment of a premium. *Non constat* that such division ever will be made. That it was subsequently done in this case is not to the point. A change of times, or heavy losses by the company at any period prior to the 15th of February, might have prevented it. Had Mr. Magarge called at the office on the 14th of January and demanded the application of the profits to the payment of his premium, the company could then have refused it. No policyholder has the right thus to direct its affairs. . . . .

It will be observed by reference to former decisions, that one of the reasons assigned by the plaintiff below why the defendant company should have received the premium tendered on the 16th of January, was that there was a custom among such companies to allow days of grace; that is to say, a certain time after the premium falls due, within

\* First tried September 20, 1875, before Judge Lynd, who entered a non-suit, which the court in banc sustained, but this judgment was reversed and a *procedendo* awarded by the Supreme Court, January 25, 1878. (5 Norris, 236.)

which it may be paid. It was held by this court, in *Helm vs. Insurance Company*, (11 P. F. Smith, 107,) and in this case of *5 Norris*, that such a custom might be shown. No such question was raised upon the present trial. The issue was narrowed down to a matter of previous dealings between the parties. . . . . Out of about thirty quarterly payments of premium, two were paid two days after maturity, with one payment in dispute. . . . . It will be noticed that in the report of the facts of the case in *5 Norris*, as well as in the opinion of Mr. Justice Trunkey, the two overdue premiums referred to were accepted after inquiries as to the state of Mr. Magarge's health. This fact does not clearly appear in the present case. . . . . There was evidence, however, that it was the uniform practice of the company not to receive overdue premiums without inquiry as to the state of the health of the assured, and that a lapsed policy might be restored on satisfactory certificate of health at any time within twelve months. . . . . Every receipt contained a warning to the assured, that the receipt of such [overdue] payments was optional with the company; to say nothing of the fact, appearing upon the former trial, that the two payments referred to were received only after inquiries as to Mr. Magarge's health, we are constrained to say that the evidence fails to establish such course of dealing between the parties as will exclude the company from showing the reasons why they declined to receive the premium on the 16th of January. . . . . If Mr. Magarge desired to be reinstated, it was his duty to call and make the necessary explanation, and satisfy the company as to his state of health. In each of the former opinions attention was called to the fact that no reason had been given why the premium was refused on the 16th of January. In the light in which the case now stands, it is only fair to the company that they should be allowed to show this.

Judgment reversed and a *venire facias de novo* awarded. (4 Outerbridge, 172.)

Holder of a paid-up life insurance policy for \$2,500, brought suit in Common Pleas at this time for recovery of the present value of the same, for the assigned reason that upon negotiation for an exchange for another form of contract, the substituted policy was not of the kind agreed upon. The jury awarded the plaintiff \$800.

A Philadelphia holder, for a few months, of a certificate in a Harrisburg coöperative, which had now and rather early reached its end, was notified by the receiver of the same of an assessment of \$285.25 for account of 175 death-claims occurring from May 12 to December 2, 1881. An examination of such coöperative had, for date of December 10, 1881, shown 352 death claims filed, and 267 for which assessments had not yet been made. This assessment association—incorporated November 1, 1880—had issued 8,000 certificates on 3,000 lives, and had no death claims up to the beginning of 1881.

During 1882 the Presbyterian Annuity and Life Insurance Company withdrew from the general life business (begun in 1875), for the purpose of confining its dealings in life contingencies to clergymen of the denomination. In 1881 this company paid for claims under life policies \$4,618.20, and to annuitants \$6,135.16. At the close of the year there were thirty-one annuity bonds with payments entered upon, and five deferred annuities. Total number of policies and annuities in force was 385, for \$722,909.87; of which there were on Pennsylvania lives 178 in number and \$390,212.05 in amount. From 1875 the annual receipts for granting annuities and the annual payments to nominees were as follows, according to the Pennsylvania insurance reports:—

	Receipts.	Payments.
1875, . . . . .	—	\$3,449 21
1876, . . . . .	—	3,348 54
1877, . . . . .	—	3,837 21
1878, . . . . .	—	3,869 21
1879, . . . . .	—	3,790 51
1880, . . . . .	\$10,150 27	4,897 66
1881, . . . . .	1,428 91	6,135 16



The other denominational organization of the kind was continuing in its second century the story with which its first century closed. In something modified, in more changeless, the Corporation for the Relief of the Widows and Children of Clergymen in the Communion of the Protestant Episcopal Church in the Commonwealth of Pennsylvania was not inappropriately described as a "company for insurance on lives only as it were by accident, and as a better mode of satisfying the clergy [than the quintuple annuities], and persuading them to come in and enjoy its benefits." To the resolution of 1869 authorizing return premiums on "policies of endowment," rising from 5 per cent. of such premium after two consecutive payments to 75 per cent. after fifteen consecutive payments, another resolution was subsequently added increasing the return of premium "on all policies of endowment issued before May 4, 1875," to 25 per cent., if of five or *less* years' standing, with, as before, 30 per cent. return of sixth year's premium, 35 per cent. of seventh year's premium, 40 per cent. of eighth year's premium, etc. The gross premium of the Corporation was, with its exemption from expense, about all net premium; that is, simply full provision for current, and part provision for prospective deaths. With payments of gratuities annually in excess of legal claims, the assets had advanced from \$298,289.46 in 1869, to 60 per cent. more in 1882—market value. The annual life premiums of the Corporation, adopted in 1876, compared with the new reduced rates of The Mutual Life, of New York, as follows, with insurance for \$1,000:—

	Corporation.	Mutual Life.
Age 25, . . . . .	\$16.10	\$16.91
30, . . . . .	18.30	19.30
40, . . . . .	24.30	26.61
50, . . . . .	34.00	40.10
60, . . . . .	54.30	65.99
65, . . . . .	67.20	87.17

Nothing could more strikingly evince the confidence of the Members in their ability to maintain in the future, despite of falling rate of interest and other contingencies, the cumulative resources of the Corporation as shown in the past, than the proposition, for example, for single premium of \$316 at age 30, to pay \$1,000 at death of such insured. The average after-life of persons at such age is about 35 years, and with the assumption of 4 per cent. interest and all other assumptions fulfilled, the full gross single premium retained and maintained as a constantly accumulating fund would amount to \$1,248 in thirty-five years—a margin of 12.48 per cent. to cover unrealized assumptions and whatever slight incidental expenses might occur.\* The Corporation, was, however, a special organization, and in any emergency could retrench in gratuities and return premiums, and its liabilities were not one-third of its assets.

At the annual meeting, May 2, 1882,—the Corporation then completing its one hundred and thirteenth year—the account of outstanding contracts at the end of the year, and payments during the year under contracts and as beneficences, were as follows:—

\* It is perhaps not necessary to add here that the compound interest earnings in an *average* of thirty-five future years is not in strictness the compound interest accumulation of thirty-five years; though in simple interest, average time is applicable to measure the average earning of different year-periods.



Policies of annuitants in expectancy, . . . . .	\$ 2,666 67	
" " endowments, . . . . .	205,927 36	
Deposits on interest, . . . . .	2,727 20	
Value of annuities now payable, . . . . .	511 97	
		\$211,833 20
The number of annuitants in expectancy, . . . . .		2
" " endowments in expectancy, . . . . .		149
" " deposits on interest, . . . . .		31
" " annuities now payable, . . . . .		5
Amount of legal claims paid during the last year, .	\$2,549 14	
Amount of gratuities paid during the last year, being those voted at annual meeting, May 3, 1881, . .	7,875 00	
		\$10,424 14
	Par.	Market value.
Assets, . . . . .	\$423,583 96	\$477,824 50

As the opposite or contrary of such a consummation or attainment as the foregoing, appeared the remains of the more technical United States Life Insurance, Annuity and Trust Company, which company or estate would number by November 22, 1882, twenty years from date of assignment to creditors. Chief cause of its collapse has been indicated, namely, losses on collateral loans in the savings-fund department and speculation with the funds. After getting its confused affairs, as they appeared immediately subsequent to the collapse, into something of order, an account was rendered of assets \$8,751.22, liabilities \$254,352.22. A dividend of 2 per cent. on the claims was awarded in 1867. In 1874 the assignee received from the representatives of John Farnum, deceased, the sum of \$11,789.07, principal and interest, deemed by such representatives actually to be due from the firm of John Farnum & Co., although the indebtedness had long been settled under a compromise. A 4 per cent. dividend was then decided upon, but the changes, obliterations and deaths in twenty years made the list of creditors largely a roll of the not to be found; still, as there were over one thousand unfound, the small amount due each probably made many of them simply neglectful. It then became a question whether the fund should be divided among those who filed claims; finally the court fixed November 22, 1882, as the final day for presenting claims to share in the final distribution of the funds to be then made. The United States was the only local life office that ever became bankrupt,—a few other and inferior offices passed away through the avenue of reinsurance or by running off of policies; the United States Life fell by remissness, not incompetency.

During the year the North American Life was dissolved by the Court of Common Pleas of Dauphin county, the few remaining policy obligations passing to the Penn Mutual.

At the close of the year 1882 the life insurance in authorized companies in force in Pennsylvania was \$204,354,000, viz.: \$48,029,274 in six State companies, \$156,201,226 in thirty-one other-State companies (including industrial risks), and \$123,500 in the Lion Life, of London. To the thirty-one other-State companies the Vermont Life, of Burlington, Vt., had recently been added. The decade then ended began with more than fifty life companies authorized to do business in the State, having about \$250,000,000 of insurance in force in the State. Thence the life insurance in force declined to \$171,561,557 in 1878, according to the Pennsylvania insurance department's report, and from the latter year began again to advance. In the decade the losses paid were at the

lowest amount with the highest amount of insurance in force. Losses paid and premiums received compared as follows, taking Pennsylvania department figures, for these three years of the decade:—

	Insurance in force, December 31.	Premiums received.	Losses paid.
1873, . . . . .	\$227,076,695 <i>a</i>	\$6,609,013	\$2,716,211
1879, . . . . .	176,224,238	4,977,704	3,327,146
1882, . . . . .	198,084,154 <i>b</i>	5,871,217	3,142,128

The five Philadelphia life companies issuing policies in 1882 had the following insurances in force at the close of the year: American, \$7,971,435; Girard, \$1,494,525; Penn Mutual, \$38,194,522; Presbyterian, \$729,977; Provident, \$32,764,062. These figures show, as compared with 1873, a *decrease* in outstanding insurance by the American Life, in the decade, of 76.3 per cent., a decrease by the Girard Life of 35.9 per cent., and an *increase* by the Penn Mutual of 57.1 per cent., with an increase by the Provident of 110.6 per cent. (In 1882 an addition of \$493,587.50 was made to the previous \$500,000 cash capital of the Provident.) The insurances remaining in force in the Pennsylvania Company for Insurances on Lives and Granting Annuities terminated to the extent of 36.9 per cent. in the decade 1873–82.

This summary shows the financial position at the close of the year and the business operations during the year of the five policy-issuing companies:—

1882.

	Assets, Dec. 31.	Liabilities, Dec. 31.	Premiums received.	Total income.	Losses paid.	Total paid policy- holders, (cash.)	Total disburse- ments.
American, . . . . .	\$3,204,780	\$2,468,811	\$ 204,229	\$ 374,542	\$265,145	\$371,147	\$ 477,076
Girard, . . . . .	*3,133,999	*1,521,891	†37,102	*250,817‡	53,630	‡62,075	*180,754
Penn Mutual, . . . . .	8,478,457	6,710,402	†1,315,379	1,811,979	531,687	913,708	1,231,896
Presbyterian, . . . . .	264,994	172,690	†21,734	35,660	11,920	‡18,556	20,980
Provident, . . . . .	7,233,894	5,567,183	†1,216,785	1,562,520‡	390,768	‡587,864	805,385
Totals, . . . . .	\$22,316,124	\$16,440,977	\$2,795,229	\$4,035,518	\$1,253,150	\$1,953,350	\$2,716,091

Some specific incomes and disbursements of these companies were, in 1882, as follows:—

	American.	Girard.	Penn Mutual.	Presby- terian.	Provident.
Premiums (new and renewal), cash, <i>c</i> . . . . .	\$175,853	\$ 37,102	\$1,217,509	\$21,989	\$1,071,112
Received for annuities, . . . . .	6,555	6,555	6,555	6,555	38,206
Interest and rents, . . . . .	170,313	174,369	439,685	12,836	300,302
Premium notes received, <i>c</i> . . . . .	15,513	15,513	104,764	104,764	6,738
Losses paid in cash, . . . . .	245,374	53,630	511,601	11,921	390,768
Paid to annuitants, cash, . . . . .	1,530	5,780	5,780	5,835	14,333
Paid for surrendered and lapsed policies, cash, . . . . .	73,423	2,665	79,286	800	38,254
Dividends to policyholders, cash, . . . . .	7,582	7,582	224,824	224,824	135,982
Losses paid, notes, . . . . .	14,556	14,556	20,086	20,086	20,086
Surrendered and lapsed policies, notes, . . . . .	18,186	18,186	15,441	15,441	268
Dividends to policyholders, notes, . . . . .	4,718	4,718	62,470	62,470	5,575

\* Life and trust departments not separated in the account. † Not including receipts from sale of annuities.  
 ‡ Including annuities. § Including receipts from sale of annuities.

*a* Ante 768.

*b* Not including industrial.

*c* Apart from deductions for reinsurance and premiums paid by dividends, including reconverted additions.

*Pennsylvania Business of the Non-State Life Companies in 1882.*

(Industrial Insurance not included.)

COMPANIES.	AGENTS.	Insurance in force Dec. 31, 1882.	Premiums rec'd during the year.	Losses incurred during the year.
Ætna, Hartford, . . . . .	C. H. Brush,	\$7,182,713	\$207,846	\$203,833
Berkshire, Pittsfield, . . . . .	West & Plummer,	2,315,342	86,899	30,089
Brooklyn, N. Y., . . . . .	R. C. Floyd,	1,367,126	42,581	11,605
Charter Oak, Hartford, . . . . .	L. C. Burt,	1,153,773	16,899	24,762
Connecticut General, Hartford, . . . . .	W. H. Tilden,	555,976	16,253	22,076
Connecticut Mutual, " . . . . .	"	13,968,681	358,707	273,131
Continental, " . . . . .	"	414,470	12,664	9,708
Equitable, N. Y., . . . . .	Read & Caveny,	15,323,298	402,098	157,310
Germania, " . . . . .	Rudolph Pott,	1,970,726	60,965	64,182
Home, Brooklyn, . . . . .	A. B. Wells,	268,817	15,769	5,000
Homceopathic Mutual, . . . . .	C. G. Weightman,	501,712	12,556	3,153
John Hancock Mutual,* . . . . .	"	"	"	"
Manhattan, N. Y., . . . . .	J. B. Carr,	4,014,028	67,867	79,621
Massachusetts Mutual, . . . . .	Smyth & Fitzwater,	2,276,701	74,844	13,777
Metropolitan, N. Y., . . . . .	"	687,196	"	"
Mutual Life, N. Y., . . . . .	Bates & Lambert,	41,044,195	1,157,101	731,863
Mutual Benefit, N. J., . . . . .	D. A. Keyes,	14,094,325	318,500	324,198
National, Vt., . . . . .	"	536,150	14,855	6,000
National, U. S. A., . . . . .	Wm. McGeorge, Jr.,	1,185,371	16,933	50,055
New England Mutual, . . . . .	Marston & Wakelin,	8,680,285	230,757	104,938
New York Life, . . . . .	More & Vanuxem,	9,610,737	316,805	85,187
Northwestern Mutual, . . . . .	Longacre & Ewing,	5,635,839	195,677	94,829
Phoenix Mutual, Conn., . . . . .	R. J. Miller,	1,341,754	26,689	15,198
Provident Savings, N. Y., . . . . .	L. Gillette,	113,528	2,366†	5,120
State Mutual, Mass., . . . . .	F. A. Howard,	342,875	12,537	"
Travelers, Hartford, (life dep't,) . . . . .	William W. Allen,	2,501,270	60,181	10,875
Union Central, O., . . . . .	William Steffe,	1,101,790	37,933	1,000
Union Mutual, Me., . . . . .	S. S. Hammond,	1,646,289	34,659	35,885
United States, N. Y., . . . . .	H. G. Freeman, Jr.,	1,745,427	44,363	18,250
Washington, N. Y., . . . . .	Richard Fisher,	2,893,190	106,006	17,786
Lion, of London, . . . . .	J. B. Thomas,	123,500	2,580	1,000

The Germania, of New York, which had engaged in the industrial branch of life insurance, issued such policies in Pennsylvania in 1881, and had at the close of that year 676 in force in the State.

*Industrial Life Insurance in Pennsylvania—1882.*

COMPANIES.	SUPERINTENDENTS.	No. of policies.	Insurance in force, Dec. 31.	Premiums received, 1882.	Losses paid, 1882.
Germania, . . . . .	"	655	\$ 70,970	\$ 3,119	\$ 1,424
John Hancock, . . . . .	E. C. Ryer,	14,206†	1,987,681	60,021	23,188
Metropolitan, . . . . .	J. P. Hall,	"	"	"	"
Prudential, . . . . .	J. H. Crankshaw,	60,967	6,269,846	120,678	80,874
"	W. G. Roberts,	"	"	"	"
"	L. F. Blanchard,	42,270	3,399,145	103,163	25,643

\* Insurance chiefly industrial; total in force, December 31, \$1,987,681.

† "Natural" or age net premiums for payment of current losses.

‡ Includes other life policies.



So ends this chronicle of varied monetary provisions resting on the personal life duration and the death contingency, as they pursued and made their way in Philadelphia from the beginning of the local practice in 1759 to the two hundredth year from the founding of the city by William Penn. It is a record of illusions vanished, of progress retarded, of aims defeated, but of security achieved. The general organization, as coming up through great tribulations, has gained nothing but what it worked for and as it worked. Mainly, those who led the way at first, fell back, but the work has gone on, though with one hundred and twenty-three years elapsed from the initial stage in the city but two Philadelphia offices shared, at the end of such period, in the active life insurance work. This feature was, however, in part, the outcome of the development that made the field of that work, not the locality of an office, but the whole country of such office, as that country should be discriminated; and the question was coming in respect to any office that would live up to the fulness of its functions, whether its city is not the world.

The life annuity for others' benefit, not self-benefit, began in Philadelphia without relation to Breslau table or hypothesis of De Moivre. The strictly technical formulation began in 1812, but De Moivre's rule for the average of life from a given age had earlier recognition. Among the illusions which have vanished has been the supposition that mathematical formulæ hold an equal relation to economic as to physical science. Experience has shown that all the prefigurings and assumptions wait, as to their outcome, upon circumstances. The economics fulfil or annul the mathematics as the ability, condition and work of the management shall determine.

Yet data and formulæ are basis and guide, if not process and consummation. Still is life insurance a regulation, not a caprice, even though in its own ways it differentiates results. The best of its computations and tables are those that build the most; for the making sure of the future is the present strength that protects and benefits, blesses and saves. Bond of certainty in land and time of doubt, it is hope to the desponding, cheer to the weary, strength to the weak. Its benedictions rest where sorrow falls. The planting of the seed may be in or with much derision, but the reaping is in honor.

# PART IV.

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MISCELLANEOUS INSURANCES.





# MISCELLANEOUS INSURANCES.

## CHAPTER I.

*What "Other Assurances" were made in London at the Close of the Seventeenth Century—Insurance as reaching out towards all Adverse Contingencies—Insurance as against Chance—Interest or Non-Interest of the Beneficiary—Wager Insurance in Italy—A Bought Servants' Insurance Office suggested in Philadelphia—The Lottery Chance as an Insurable Interest—John Reily insures Tickets in St. Pauls's Church Lottery—Lottery Ticket Hazards written at Kidd & Bradford's Philadelphia Insurance Office—Estimate of the Hazard—A Lottery Ticket Policy—Two Lottery Insurance Loss Settlements—Ransom Insurance—Petition of American Captives in Algiers—Ransom Risks and Rates of the Insurance Company of North America—Tribute paid by the United States to Algiers. (1693-1795.)*

AT the founding of the city of Philadelphia there were in practice in Europe marine assurance and "other Assurances," the latter rather exceptional incidents and somewhat uncertain in tenor. To quote the words of Leybourn in 1693:—

Other Assurances are made upon Goods that are sent by Waggon or Cart &c by Land from all Robbers or Thieves &c. Other Assurances are made upon the Lives of Men and Women, at a rate that is moderate. For by this means if you buy any Place or Office that is worth 1000*l.*, or more, or less, and you have not Mony enough to purchase it, you borrow 4 or 500*l.* Now if you die, and are not in a Condition to pay this Mony, it is lost: But if you Ensure your Life, then your Friend that you did borrow of, will have his Mony honestly paid him.

Some Assurances are likewise made upon the Heads of Men; as if a Man going for the *Streights*, and perhaps is in some fear that he may be taken by *Moors*, or *Turkish* Pirates, and so made a Slave, for the Redemption of whom a Ransom must be paid, he may (ere he goes on Ship-board) go to the *Insurance-Office* and advance a *Premio* accordingly upon a Policy of Assurance; and if he be taken into Slavery in the Voyage, the Assurer or Assurers must answer the Ransom that is secured to be paid on the Policy. (Appendix, 38.)

The "*Insurance-Office*" was a marine insurance office, and as fire insurance policies were not then written by the personal underwriters, the rising fire insurance of London was not included in the "other Assurances."

The doctrine of the marine policy was broad; it extended in principle to all contingency of loss; at least, to all "hurt, damage or detriment." Marine insurance was—Insurance. So far as early held to be founded upon *contingency* rather than upon indemnification, there was question as to whether it was not properly applicable to all chance occurrence. Roccus relates that the

following kind of "insurance" was, before 1655, decided at Florence to be valid: "If such a [named] person die in the course of this year you promise to pay me ten pieces, if he do not die I promise to pay you one hundred." (Note lxxiv.) This by more recent interpretation would be a mere wager. As *either* 10 or 100 was payable, not *each*, there was no paying *primo*; consequently, no insurance. Between the use and abuse of insurance, the distinction was afterwards drawn at the interest or non-interest of the beneficiary in the subject of the insurance. In the case at Florence, however, where the provision was against the contingency of *living*, not dying, one as heir apparent or heir presumptive might have had an interest affected diversely by the living and the dying, and so might have negotiated for one reversion to mature in lieu of another failing to mature. In Italy a wager contract might have been lawful or unlawful. Roccus says: "If a wager have an honest consideration, lawful in itself, as from the uncertainty and precariousness of an event where one party may gain and another lose, the contract is legal." (Note lxxiii.)

Misfortune, accident, deprivation, constitute the sphere of insurance within the limitations of local law. Extension of insurance practice in respect to diverse subjects was, however, slow and indeterminate as the practice of marine insurance advanced, though one project after another had been started in Europe.

The Redemptioners, or such immigrants to Philadelphia as had sold their service for a term of years to pay for their passage from Europe, so frequently ran away, to the loss of those contracting for such service, that the practice became risky to the purchaser. There appears to have been a Bought Servants' Insurance Office suggested in the second quarter of the eighteenth century to obviate this hazard, but the idea was not carried out. The personal Philadelphia marine underwriter was yet in a novel position with respect to established risks, and had little inducement to engage in experiments outside of experience.

The lottery chance not being a prohibited venture at the time, occasions arose when its attractiveness would be utilized in aid of some new enterprise, or to benefit some public institution. As not then an unlawful practice in the city, insurance was applicable to its hazards. Such hazards were as normal as the fire risks of a distillery or tavern, with the distillery or tavern not prohibited by statute. The insurable interest of the lottery ticket holder, at the time here embraced, in the contingencies of the drawing, as compensation for or loss of the purchase price of the ticket, was as unquestionable as the insurable interest of the owner of a cargo of merchandise in his merchandise, bought with a view of making gain.

John Reily, the versatile Philadelphia scrivener, offered in January, 1761, to insure tickets (not prizes) in St. Paul's Church lottery "at a very low premium."

In the Philadelphia Insurance Office, opened by Kidd & Bradford in April, 1762, "Risks in general" were to be "underwrote," but such "Risks in general" were those of "Shipping and Merchandize" in their varied character;

yet in 1771 there were subscriptions here to a lottery-loss hazard, which subscriptions, with printed policy, are suggestive of a recognized practice.

A lottery was set up in 1771 to aid in promoting a china factory, which had been projected in the city; the price of each ticket was £1 10s., or \$4. Two persons purchasing 200 of such tickets sought insurance not upon any prospective gain or profit, but upon prime cost. The risk was accepted by underwriters at Kidd & Bradford's, seemingly upon the assumption that 18 per cent. of the tickets would draw prizes *more* than sufficient to reimburse the cost of all the tickets. From execution of policy to settlement of loss the proceeding was as follows:—

WHEREAS Gousse Bonnin & Geo. A. Morris are possessed of *Two hundred Tickets* in the *Lottery for the encouragement of the China Factory*, the Scheme whereof is hereunto annexed, together with a List of the Numbers of the Tickets, and doth make Insurance, and causeth *themselves* to be insured for the whole Cost of the above Tickets, amounting to the Sum of *Three hundred pounds Pennsylvania Currency*—being at the Rate of *thirty Shillings* per Ticket: And it is agreed by us the Assurers, that this Writing or Policy of Insurance shall be of as much Force and Effect, as the surest Writing or Policy of Assurance heretofore made in *Lombard-street*, or elsewhere in *London*; and so we the Assurers are contented, and do hereby promise and bind ourselves, each for his own Part, our Heirs, Executors, and Goods to the Assured, their Executors, Administrators and Assigns, for the true Performance of the Premises; confessing ourselves paid the Consideration due unto us, for the Assurance, by the said Assured, or their Assigns, at and after the Rate of *Eighteen* per Cent. and in Case of a loss, or that the whole of those Tickets taken together do not draw Prizes equal to their first Cost, agreeably to the Estimation in the annexed Scheme, THAT, then in that Case, the Assurers shall, within Twenty Days after Proof thereof, pay, or Cause to be paid the whole, or the partial Loss to the Assured, without Abatement or Deduction whatever. And to prevent Delays and Litigations, a Prize List, under the Hands and Seals of the Managers of the said Lottery, being properly authenticated, shall be deemed a valid and sufficient Proof. And in Case of the Death of one or more of the Managers, or other unavoidable Accident to prevent his or their officiating, the Proprietor, on acquainting the Broker thereof, and also, of the Person or Persons proposed to superintend the Drawing in his or their Room, and he making no Objection within Forty-eight Hours after such Notice, That then the said Drawing, under the Inspection of such newly appointed Managers being upon Oath, shall be deemed as valid, as if drawn agreeable to the annexed Plan.

In Witness whereof, WE, the Assurers, have subscribed our Names and Sums assured, in *Philadelphia* the Fifth Day of December One Thousand Seven Hundred and *Seventy-one*.

N. B. The Assured shall allow the Broker Half per Cent. for collecting any Loss that may happen on this Policy, paying the same in due Time, and registering this in the Office Books.

Number of the Tickets.

199 to 206 inclusive	is	8 tickets.		
226 to 277	do	is 52	do	
2111 to 2143	do	is 33	do	£50, Fifty pounds, . . . . . David Franks.
2155 to 2165	do	is 11	do	£50, Fifty pounds, . . . . . James Searle.
2309 to 2363	do	is 55	do	£50, Fifty pounds, . . . . . Matthew Mease.
210 to 220	do	is 11	do	£50, Fifty pounds, . . . . . Matthew Mease,
666 to 674	do	is 9	do	for John Mease.
1644 to 1654	do	is 11	do	£50, Fifty pounds, . . . . . John Nixon.
721 to 730	do	is 10	do	£50, Fifty pounds, . . . . . Jno. Shee.

200 Tickets.

[SETTLEMENT.]

*Underwriters on a policy of Two hundred tickets in the China Factory lottery,*

*To G. Bonnin & G. A. Morris, Dr.*

*To prime cost of 200 tickets @ 30 sh. each, . . . . . £300*



		Cr.	
By 18 pr Cent. premium on the above, . . . . .	£ 54		
By 75 prizes of 5 dollrs each, are . . . . .	375		
1 ditto of " " . . . . .	50		
1 ditto of " " . . . . .	20		
		445 dollrs =	166 17 6
Balance due Bonnin & Morris, . . . . .			79 2 6
			<u>£300</u>

Philad'a, Decem'r 21st, 1771.

		Errors Excepted.	B. & M.
Loss £79 2 6			
David Franks, . . . . .	50		13 3 9
James Searle, . . . . .	50		13 3 9
Matt. Mease, . . . . .	50		13 3 9
John Mease, . . . . .	50		13 3 9
John Nixon, . . . . .	50		13 3 9
John Shee, . . . . .	50		13 3 9
	£300		£79 2 6

December 9, 1771, the same underwriters, with the addition of John Ross, insured Bonnin and Morris by a similar policy, £360, and at same rate, on 240 tickets (numbers detailed on policy), viz.:—

£50, Fifty pounds, . . . . .	David Franks.
£50, Fifty Pounds, . . . . .	James Searle.
£50, Fifty pounds, . . . . .	John Nixon.
£50, Fifty Pounds, . . . . .	John Mease.
£50, Fifty Pounds, . . . . .	Jno. Shee.
£50, Fifty Pounds, . . . . .	Matthew Mease.
£60, Sixty pounds, . . . . .	Jno. Ross.

[SETTLEMENT.]

Underwriters on a policy of two hundred and forty tickets in the China Factory Lottery,

To G. Bonnin & G. A. Morris, Dr.

To prime cost of 240 tickets @ 30 sh. each, . . . . . £360

		Cr.
By 18 pr Cent premium on the above, . . . . .	£64 16	
By 88 prizes of 5 dolls each are . . . . .	440	
2 prizes of 100 do each are . . . . .	200	
		640 doll = 240

		£304 16
Balance due B & M, . . . . .		55 4
		<u>£360</u>

Philad'a, Dec'r 21, 1771.

		Errors Excepted.	B. & M.
Loss £55 4 0			
David Franks, . . . . .	50		7 13 4
James Searle, . . . . .	50		7 13 4
John Nixon, . . . . .	50		7 13 4
John Mease, . . . . .	50		7 13 4
John Shee, . . . . .	50		7 13 4
Matt. Mease, . . . . .	50		7 13 4
John Ross, . . . . .	60		9 4 0
	£360		£55 4 0

If £360 lose £55 4 what will £50 lose—Answer £7 13 4.

If £360 lose £55 4 what will £60 " Answer £9 4 0.

(Bradford Mss., Hist. Soc. of Penna., Vol. II., 121-124.)

With 440 tickets there was perhaps an approximation to the mean or actual hazard, and so there appears to have been a premium of 18 per cent. charged for about 39 per cent. *total* risk, with 38 per cent. of the tickets more than reimbursing their own cost. But taking the two policies together the underwriters restricted their risks by the adjustments, making the actual premium rate of their hazard nearly 22 per cent. with the insured, co-insuring to the amount of £118 16s. in the total policy sum of £660. Without the insurances the ticket holders would have lost £253 2s. 6d., with the insurances they lost £118 16s. The insured got their prizes £406 17s. 6d. (so much salvage to the underwriters), had their premiums £118 16s. returned to them, and received in addition from the underwriters £134 6s. 6d.. In other words, the insured had at risk £778 16s., the underwriters had at risk £541 4s., and (£541 4s.)— (£406 17s. 6d.) = £134 6s. 6d.

But while underwriting may descend to serve mere gainfulness, it can ascend to save. As redeemer of the captive, insurance "on the Heads of Men" was made in the city in the last decade of the eighteenth century. For generations the marine insurers of Europe had defended against "Turkish, Moorish, Barbarian, and other un-Christian Pirates and Cruizers." At the opening of 1793 there were more than 120 American captives held in slavery by the Algerines. The following recital, with others of like tenor, evoked sympathetic action:—

*In the Name of Almighty God!*

The humble petition of the American captives in Algiers, is most respectfully submitted to the consideration of the citizens of the United States of America.

Fellow-Citizens,

Your Petitioners had the misfortune to be captured by the Corsairs of this Regency, nearly eight years past, while we were navigating vessels belonging to the Citizens of the United States.

That we were, for a considerable time, flattered with the expectation held up to us, that we would be redeemed from captivity, as soon as it could be done consistent with propriety and the interest of our country.

That to effect this Redemption, Mr John Lamb was sent to Algiers on the part of the United States, and that he entered into an agreement with the Regency of Algiers for our ransom: in consequence of which, the sums were recorded on the books of the Regency as a bargain regularly made; but Mr Lamb never returned to fulfil them by the payment of the ransom-money; though he promised, in the name of the United States, to do it in four months.

That several persons have since been empowered to make enquiries, whether the ransom agreed upon by Mr Lamb might not be reduced; but all attempts of that sort have hitherto proved ineffectual: The Regency declaring, that the contract made by the agent on the part of the United States, ought to be discharged.

That owing to the melancholy situation to which we are reduced, one of us, James Harnett, has been deprived of his senses by the Almighty, to make him insensible of his situation as a victim; and is, these three years, confined in a cell in chains. The rest of us have been left destitute three years; and in this deplorable situation, many of us have resisted the temptations of the Regency to enter into their service, which might be attended with the remorse, and a great detriment to our country—we trusting in the justice and humanity of our country to extricate us from slavery.

We have repeatedly petitioned Congress without effect: At first we were informed, that Mr Lamb would redeem us; next that the United States were poor, and that they were forming their government; next that a subscription would be set on foot for our release; next, that the United States were rich, and would make a peace, and redeem us; next, that our redemption concerned the peace. In April last, Congress commissioned to try for a peace. The Dey prescribed his terms more favourable than the peace of the Danes,

Swedes, or Venetians; or even than the Dutch had. We now hear that Congress has rejected the peace with Algiers, and given us up as victims, determined not to redeem us; thus have suffered an ignominious captivity of eight years.

We pray you will consider what our sufferings must have been, during this long period of captivity: Three times surrounded by the plague; which has numbered five of our brother sufferers in the bills of mortality. The rest of us seem destined to share the same fate.

The plague, that tremendous and fatal disorder, at present is raging in this city, and it seems, that we are to be its victims. We are on the verge of eternity; therefore, we beg of the citizens of the United States, in the name of the Almighty and our Saviour, who died to redeem us all, that our country will adopt some plan to extricate us from this city of human misery; and we shall ever pray and be thankful.

Fellow Citizens,

Your most humble Petitioners, The under-written Crew of the ship *Dauphin*, of Philadelphia, belonging to Messrs Mathew and Thomas Irvin.

	Dollars.
Richard O'Brien, Master, at . . . . .	4,000
Andrew Montgomery, mate, at . . . . .	3,000
Philip Sloan, at . . . . .	1,400
Peleg Lorin, at . . . . .	1,400
James Hall, at . . . . .	1,400
Jacob Tissamer, at . . . . .	4,000
William Patterson, at . . . . .	3,000

Spanish Dollars, 18,200

Crew of the schooner *Hiana*, of Boston, belonging to Mr. William Foster:

	Dollars.
Isaac Stephens, at . . . . .	4,000
Alexander Forsyth, at . . . . .	3,000
James L. Cathcart, at . . . . .	3,000
Thos. Gregory Billingsat, at . . . . .	1,400
James Harnett, at . . . . .	1,400

Spanish Dollars, 12,800

These are the terms of redemption of the American Captives. To be added, a duty of 15 per cent.

Algiers, April the 9th, 1793 & }  
8th of captivity.

In January, 1794, the Insurance Company of North America adopted a form of policy for insuring persons against "Capture by Algerines, etc." The following was an entry of the first insurance of this character:—

1794 Feb: 11	JOHN COLLETT INSURANCE for Premium on his Person against Algerines & other Barbary Corsairs in a voyage from Philadelphia to London in the Ship <i>George Barclay</i> himself Master Valuing himself at <i>Drs 5000 2 pr ct</i> Policy	<i>Dr to</i>	100	50
			100	50

March 7, Captain Samuel Hubbell, of the ship *Eagle*, Baltimore to Oporto or Lisbon, was so insured for the sum of \$4,000; and here, nearing in destination the Barbary coast, the rate was 5 per cent. In May, a policy of which the following is a record, was issued:—

POLICY N. 1200 dated May 13, 1794 *Alexander Anderson* at and from Bourdeaux to Philadelphia on the Person of *Thomas Baker* aboard the Brig *Hector*, himself Master

*Drs 4000 5 pr ct*

policy

200.

50 200 50



THIS INSURANCE is declared to be made upon the person of *Thomas Baker*, Master on board the Brig *Hector* from Bourdeaux to Philadelphia; against the risque of Capture by the Algerines, or any of the Barbary Corsairs only; and it is mutually agreed between the Parties to this Policy, that if the said *Thomas Baker* should be kill'd in any attempt made to defend the said Brig against the said Algerines or Corsairs; or should die before or after his Captivity and before he should be Ransomed; the Assurers shall not be bound to pay any other sum or sums than what may have been expended in attempting the Ransom of the said *Thomas Baker*.

In 1795 the United States began the purchase of exemption, year after year, from such captures of its citizens by paying tribute, "Annuities," to Algiers. The captives were liberated, and with the issue of few policies ransom insurance terminated in the United States.

CHAPTER II.

*Non-Practice of the Minor Insurances for Half a Century—Health Insurance—Sickness Probabilities according to Age—Massachusetts Experiment and Rates in Health Insurance—The Health Insurance Company of Philadelphia—Its Rates—The Position and Difficulties of Health Insurance—Elements of Sickness Tables according to Neison—Operations of the Health Insurance Company of Philadelphia—Another Health Insurance Charter—Doubtfulness and Demoralization of Health Insurance Undertakings—The Health Department of the American Life and Health Insurance Company—Tuckett's Views on Health Insurance—The United States Life Insurance and Annuity Company insures the Lives of Slaves—The Rating in Slave Insurance—A Slave Insurance Policy—Classes of Slave Insurance Hazards—An Adjudication as to Slave Insurance Hazard. (1848-1856.)*

WHILE in the active organization of city companies in the first decade of the nineteenth century there was more or less of a purpose shown to unite upon diversity of hazard, by 1820, companies writing marine risks were limited generally to such writing, and in the subsequent two decades "other assurances" than marine, fire and life were neither practiced nor thought of in Philadelphia. Health insurance, however, another adoption of English practice, became—as to term, not whole-life risks—an American experiment in the fifth decade of the century. Various schemes of the kind having been projected in Great Britain, some data had been collected, computations made thereon, and lists of rates produced—single and annual premiums. Sickness tables represented the sickness periods in England as varied, not only by age, but by the circumstance of rural, town, or city residence; invalidity having its highest quantum in the city, and the lowest in the country. In such representation (the average sickness period advancing with advancing age, or fluctuating,) there was an illness, for example, for age 20, of .8387 of a week in the country, against 35.2065 weeks for age 80 in the city. The mean of the combined local divisions was for quinquennial ages as follows:—

	Weeks' Sickness.
Age 20, . . . . .	.8398
25, . . . . .	.8744
30, . . . . .	.9107
35, . . . . .	.9836
40, . . . . .	1.1808
45, . . . . .	1.4939
50, . . . . .	1.9603
55, . . . . .	2.7049
60, . . . . .	4.1657
65, . . . . .	7.7501
70, . . . . .	14.0391
75, . . . . .	21.4662
80, . . . . .	26.9405

This was to say that among 100 persons, age 35, there would be approximately 98 weeks' sickness at such year of age, and a sick benefit of \$4 per week would have a prime cost per annum to each associate of \$3.92.

In Massachusetts the American experiment had its best test. The first provision for insurance against loss from incapacity attending ill health was the Massachusetts Health Insurance Company of Boston, an institution of character, with its operations based upon recognized elements of possibly correct procedure. It was followed by others chiefly of a speculative nature, the ignorance at the foundation of such speculations producing its normal result—first self-deception, then the deception of others. Health insurance, if not the initiative, became the forerunner of an era of various insurance frauds. The Massachusetts Health Insurance Company, within the age limits to which it confined itself, issued term contracts for one, two, three, or five years, with annual rates according to the age of the entrant upon the insurance, and the term written; rates uniform to the insured throughout the term. These are exemplified by the following citation of annual rates according to term and entrance age, for the weekly benefit of \$4 during incapacity from sickness:—

	One year.	Two years.	Three years.	Five years.
Age 20, . . . . .	\$4.50	\$4.95	\$5.17	\$5.62
21, . . . . .	4.55	5.00	5.23	5.69
25, . . . . .	4.75	5.22	5.46	5.94
30, . . . . .	5.00	5.50	5.75	6.25
35, . . . . .	5.50	6.05	6.32	6.87
40, . . . . .	6.50	7.15	7.47	8.12
45, . . . . .	7.80	8.58	8.97	9.75
50, . . . . .	9.00	9.90	10.35	11.25

This organization does not appear to have taken the responsibility for the years beyond the middle period of extreme life.

During the last six months of 1847 this Boston office received fourteen hundred new members; in Philadelphia, at the beginning of 1848, a somewhat similar project was conceived, and March 2, 1848, an act was approved incorporating the Health Insurance Company of Philadelphia—capital, \$100,000, shares \$25 each, \$5 to be paid in on subscription.

Sections 9 and 10 of the act of incorporation were as follows:—

SEC. 9. After providing for all risks, losses, incidental expenses and dividends, as specified in the preceding section, then one moiety or half part of the remaining profits or surplus, if any there be, shall be reserved by the directors, and applied by them towards the payment of the capital stock, which shall have been subscribed before the striking of the balance of the affairs of the corporation, as aforesaid, and the other moiety or half part of the said remaining profits and surplus may be divided among the stockholders and the persons insured, according to their respective interests; one half thereof among the stockholders, and the other half among the insured; but no dividends whatever shall be made whereby the capital stock of said corporation, subscribed for and paid in, shall be reduced or impaired.

SEC. 10. The directors shall have the power to require every person subscribing to the stock of said company, to effect insurance therein, either upon his own health or upon the health of some other person, for such length of time as they may prescribe; but every person, effecting insurance in said company, shall have the privilege of subscribing for at least one share of said stock, paying at the same time the required instalment, until the whole number of shares authorized by this act shall be taken up, and any person subscribing for the stock of said company, and paying the instalment at the time of subscribing as aforesaid, may be allowed by the directors, and with their permission, obtain, in addition



to the stock so subscribed by him, a policy of insurance upon his health, or upon the health of some other person, being in all other respects qualified according to the terms of the by-laws of said company, and such person so subscribing may receive a credit for the amount of the premium of such insurance, out of the said instalment paid on one share of stock, until two hundred shares of the capital stock are subscribed for, but not after.

The Health Insurance Company was in readiness for business in April; Samuel D. Orrick, president; William F. Boone, secretary; Gouverneur Emerson, M. D., consulting physician.

DIRECTORS.

Samuel D. Orrick.	Jacob Snider, Jr.,	Edward Duff,
Calvin Blythe,	John Thomason,	Wililam J. Crans,
Charles B. Hall,	Daniel C. Lockwood.	Charles P. Hayes,
William F. Boone,	James P. Bruner,	Charles O. B. Campbell.

The rates of the Health Insurance Company were in age groups instead of being for distinctive ages. They indicated an estimate of sickness greater under age 35 than the Boston office, and less for ages above 35, viz.:—

ANNUAL RATES TO INSURE THE BENEFIT OF \$3, \$4, \$5, \$6, \$8, OR, \$10 PER WEEK, FOR ONE, TWO, THREE, OR FIVE YEARS.

AGE.	\$3 WEEKLY.				\$4 WEEKLY.				\$5 WEEKLY.			
	1 yr.	2 yrs.	3 yrs.	5 yrs.	1 yr.	2 yrs.	3 yrs.	5 yrs.	1 yr.	2 yrs.	3 yrs.	5 yrs.
18 to 35, . . . . .	4.00	4.45	4.70	5.20	5.25	5.75	6.05	6.65	6.55	7.10	7.40	8.00
35 to 45, . . . . .	4.25	4.85	5.15	5.80	5.50	6.20	6.55	7.25	6.85	7.60	7.95	8.70
45 to 55, . . . . .	5.50	5.30	5.70	6.50	5.85	6.70	7.10	7.95	7.25	8.15	8.60	9.50
55 to 65, . . . . .	5.85	5.75	6.20	7.10	6.25	7.20	7.65	8.60	7.70	8.70	9.20	10.20
	\$6 WEEKLY.				\$8 WEEKLY.				\$10 WEEKLY.			
	1 yr.	2 yrs.	3 yrs.	5 yrs.	1 yr.	2 yrs.	3 yrs.	5 yrs.	1 yr.	2 yrs.	3 yrs.	5 yrs.
18 to 35, . . . . .	7.90	8.50	8.80	9.45	10.35	11.10	11.50	12.90	12.90	13.75	14.20	15.05
35 to 45, . . . . .	8.25	9.05	9.45	10.25	10.80	11.70	12.15	13.05	13.45	14.45	14.95	15.95
45 to 55, . . . . .	8.70	9.65	10.10	11.05	11.35	12.40	12.90	13.95	14.10	15.25	15.80	16.95
55 to 65, . . . . .	9.20	11.25	10.75	11.70	11.95	13.10	13.65	14.80	14.80	16.05	16.65	17.90

Rates for groups of ages had justification in the indefinite character of the risks. Insurance against deprivation caused by sickness for a term of years beginning at a certain age, in taking cost as an increasing annual quantity, was an intelligent method in comparison with the lumping of term rates in fire insurance, by which a uniform annual quantity was treated as a decreasing quantity; but an exact counting of an inexact quantity was like computing the value of a number of barrels of flour when the number might be 7 or 10 or 12.\* It was true that in life insurance also the age death rate was not an exact quantity, but it was a practically close approximation thereunto, and it was

\* Respecting the amount of sickness in *whole* life, and its effect on whole-life rating, Neison, in his Vital Statistics, illustrated that the rate of sickness from a given age was not of itself a sufficient index to the rate of premium that may be deduced therefrom. "Three elements affect the [premium] Sickness Tables—the rate of mortality, the rate of interest, and the rate of sickness; . . . . . two classes of the population may be influenced by the same or nearly the same degree of sickness, and yet be subject to very different rates of mortality." Hence, take 100 persons of age 30, and suppose their equation of life to be 30 years, and another 100 of age 30 with 40 years as their equation of life; one-half of the former would live to attain but 60 years, one-half of the latter would not be dead until 70 years of age, and so a larger survivorship "would be subject to an increased ratio of sickness in the decennial period following age 60."

governed by the controlling fact that a life aged 30 would end by the final table year as a certainty affected by an infinitesimal fraction of a doubt. No insurance could have the elements of approximate certainty which life insurance possesses. Health insurance was a useful scheme beset with obstacles to its practice. Its subject was largely acceptable to popular sentiment, but in this sentiment provision for sickness was more of a beneficence than an insurance.

By the beginning of 1849 the Health Insurance Company had issued 1,126 policies, and had paid for "sick allowances" under its policies, from April to January, \$165 to machinists, \$235 to other mechanics, \$165 to merchants, \$97 to manufacturers, \$75 to clerks, \$58 to physicians; to other male persons and pursuits, \$111; to females, \$55. At the election in January, Messrs Robert P. King, M. W. Baldwin and James Laws took the places of John Thomason, J. P. Bruner and Edward Duff in the directory.

April 7, 1849, another health insurance charter was approved, having the title Spring Garden Health Insurance Company of Philadelphia County.

Health insurance was, however, disclosing the characteristics of a doubtful experiment; the original undertakers thereof throughout the country were withdrawing, and as the project passed from weakness to demoralization and fraud, capricious rules were adopted promising per week, for benefits while incapacitated from sickness, irrespective of age distinction, a sum equal to two-thirds or three-fourths, etc., of the yearly premium. In Philadelphia the project was yet continued in the expectancy that it was practicable in association with life insurance.

The health department of the American Life, beginning in 1850, was constituted with the largest caution. Payment for first week's sickness was eliminated. Whenever the aggregate funds of the department should be reduced to less than \$2 per member, a reduction in benefits was to follow. Persons receiving sick allowance for twelve months, were to receive but 75 per cent. of such allowance in the second year, 50 per cent. in the third year, 25 per cent. in the fourth year.

Respecting health insurance, Harvey G. Tuckett said, in the Prospectus of his Journal starting January, 1852: "In no department of the science of insurance have greater mistakes occurred than in that of Health." Parties entered upon the speculation, one taking another's "printed rates as a guide, deducting ten, fifteen or twenty per cent., as fancy dictated or the greater number of policies could be obtained. . . . The mischief which has been done is not irretrievable, if the proper calculations are placed before the public." But the scheme was not in a position to resort to "proper calculations."

Health risks were now discontinued in the two Philadelphia offices that had written them during brief periods.

As insurance was upon life—the vital organization—and property, it could apply where these were in association. Whether a Pennsylvania charter enacted in 1850 could authorize insurance upon the lives of slaves as property



was not brought to a test, and there were no slave risks in the State. The United States Life and Annuity, a Pennsylvania corporation doing business in the Southern States, included in its southern insurances the issue of policies on the lives of slaves. With an actual higher rate of mortality among the free colored population than among the white population, and with a possible higher death rate among the slaves than the free colored people, the basis premium scale on the life of the slaves (as field hands generally on resident plantation) was 18 per cent. higher at age 35 than on the life of the white freeman, and 61 per cent. higher at age 55—single year premiums.\*

\* Dr. Wynne gave the following average ages of classes of population in the United States, deduced from the United States census for 1850:—

	Average age.
Whites, . . . . .	23.10 years.
Free colored, . . . . .	24.54 "
Slaves, . . . . .	21.35 "

Average age of the *living* is, however, no measure or indication of death rate.

The following is an example of a slave policy:

— LIFE INSURANCE COMPANY, —, No. —, \$—.

This policy of insurance witnesseth, that the — Life Insurance Company, in consideration of \$—, to them in hand paid by —, —, do insure the life or lives of the within named slave or slaves belonging to — of —, in the State of —, in the amount set opposite his, her or their names, as below, viz.:

Names.	Age.	Amount insured.	How employed.
—	—	—	—
—	—	—	—

amounting to the total sum of \$—, for the term of one year from the date of this policy.

And the said company do hereby promise to pay to the said —, within sixty days after due proof of the death of any of the above-named slaves (if the death shall occur within the time for which this insurance is effected), the amount insured in this policy, set opposite the name or names of the deceased.

And it is further agreed by the said company that they will continue this insurance from year to year for — years from date, on the annual payment by the said insurer of the same amount of premium, on or before — day of — in every year during the continuance of this policy.

Provided always (and it is hereby declared to be the true intent and meaning of this policy) that if the application signed by the said —, and dated —, shall be in any respect fraudulent or untrue, or if the said slave or slaves, or any of them, shall die by his, her or their own hands, or by intemperance, or by the hands of justice, or in the violation of law, or by or in consequence of a mob, a riot, a foreign invasion, a civil war, or an insurrection, or any military or usurped power, or by the maltreatment or neglect of the owner, or of any person to whom he, she or they may be entrusted; or if the said slave or slaves, or any of them, are now, or shall be hereafter insured in any other company, or shall abscond or be kidnapped, or shall, without the written consent of the said company, either be sold or given to a new owner, or be removed fifty miles from their present residence, or be employed in a more hazardous occupation than their present one, the degree of hazard to be estimated by the said application, and the scale indorsed on this policy, whenever it is applicable; or if, in case of the sickness of the said slave or slaves, or any of them, he, she or they shall fail to receive all due and proper care, promptly and without delay, or if this policy shall be assigned, without the written consent of the said company; then, and in all such cases, the said company shall not be liable to pay the sum insured and set opposite the name or names of the said slave or slaves, deceased, or any part thereof, and this policy, so far as relates to such payment, shall be utterly void. And it is further agreed that the said company shall not be bound to pay more than two-thirds of the value of such of the said slaves as may die during the continuance of this policy, the said value to be estimated as at the beginning of the last illness.

In witness whereof the said company have, by their president and actuary, and by —, their agent at —, signed this policy at twelve o'clock (at noon), this — day of —, 18 —.

—, President.  
—, Actuary.  
—, Agent.

Not hazardous when employed by their owner in ordinary occupations. Hazardous when hired out, even in ordinary occupations. Extra hazardous when employed on steamboats, vessels, railroads, rice fields, or about a steam engine. *a*

*a* A female slave was insured as a laborer in a tobacco warehouse. She was then put on board of steamer to be removed to a sugar plantation, to work on such plantation. While passing from the steamer to the shore, the woman fell in the water and was drowned. Resisting claim, the company defended on the averment that the change in occupation enhanced the risk. *Held*: The intention to employ her on a sugar plantation was not the cause of death. (Summers vs. United States Insurance, Annuity and Trust Company. 13 La. An., 504.)



## CHAPTER III.

*Live Stock Insurance—Agencies of Live Stock Insurance Companies in Philadelphia—Premiums of the Northern, of New York—The Philadelphia Mutual Live Stock Insurance Company—The Conditions of its Insurance—The Rates of the Agriculturist Cattle Insurance Company of England, and of the Philadelphia Mutual Live Stock—Storm Insurance—Loss as of Proximate Cause in Storm Insurance—The Mutual Health Insurance Society of Pennsylvania—Accident Insurance—Its Practice in the United States urged and its Characteristics defined, with Classes of Hazard and Rates stated by Tuckett's Monthly Insurance Journal (1857)—Steamboat and Railway Travel the first American Accident Insurance Risks—Charters for New Insurance Projects—The Commercial Guarantee Charter (Insurance of Commercial Notes, Debts, etc.)—The Ætna Charter (Insurance of Rents as Income)—The New Insurance Projects considered prospectively in the Pennsylvania Insurance Handbook (1860)—End of the (First) Philadelphia Live Stock Insurance Company—The North American Transit Insurance Company of Philadelphia—The Travelers Insurance Company of Hartford opens an Agency in Philadelphia—Its Change from Travellers' Accident Insurance to General Accident Insurance—Annual Premiums of the Travelers for Fatal and Non-fatal Accidents, Non-hazardous and Steam Travel Risks—Enumeration of Railway and Steamboat Accidents in the United States, 1854-63—Superintendent Barnes, of New York, views the Field as opening for the Several Subjects of the Fourth Division of the General Insurance Hazard—The Immediate Failures—The First Nine Months' Business of the Travelers, of Hartford—The North American Transit opens an Office for the Insurance of Travellers and Miscellaneous Contingencies—A Pennsylvania Governor's Veto and Reasons therefor—Reorganization of the North American Transit—The Moral Hazard in Accident Insurance—The Great Eastern Detective Horse and Live Stock Insurance Company—The Hartford Live Stock Insurance Company—The Travelers, of Hartford, in 1866—The Railway Passengers' Assurance Company of Hartford—Collapse of Accident Companies through the Pressure of Expenses—The Travellers' Insurance Company of Providence—The Provident Life Insurance and Investment Company of Chicago—The New York Accidental—The North American Transit becomes the North American Life and Accident—Courts of Common Pleas authorized to grant Live Stock Insurance Charters—Plate Glass Insurance—The United States Plate Glass Insurance Company of Philadelphia—Its Risk Classifications and Premiums—The Application for Plate Glass Insurance and the First American Plate Glass Insurance Policy. (1850-1867.)*

INSURANCE of horses and cattle against death, or injury, by fire was within the province of the fire policy as loss of animals often was within the application of the marine policy, but specific insurance against loss of such property from general causes was rather a rural than a city practice.

April 6, 1832, the Northampton Horse Insurance Company for the Insurance of the Lives of Horses and the Detection of Horse Thieves was incorporated by the legislature of Pennsylvania; and live-stock insurance was measurably practicable when confined to farmers and others living in rural

districts, knowing one another and sufficiently intelligent to understand that the security of each one of the insured could be maintained only by enforcing strictly honest conduct on the part of every member.

Whatever were the drawbacks, as subject to casualty on land as well as to the perils of the seas, animal property had been insured in Europe. In 1720 the personal underwriters of Hamburg "took upon themselves" "*all* damages or misfortunes" happening to the beast upon which insurance was made. Disability of the animal from accident was matter of policy writing long before non-fatal accident to the human person was the subject of such contract, excepting such instances as ransom policies. Mortality of the beast from disease was a specific risk in northern Europe in the last quarter of the eighteenth century, and such mortality became the sole purpose of the distinctive cattle or live-stock insurance. In its regulations such insurance was in accord with the adage "the merciful man is merciful to his beast," as a matter of safeguard to the insurers; this, however, dependent upon the ability of the insurers to enforce their regulations. The practice grew to value the animal, and compensate for three-fourths or two-thirds of such value. Hap-hazard was, however, largely the character of such ventures, and the aggregate jeopardy was three or four times greater than that of human life.

Country live-stock insurance companies would occasionally try city horse risks. The live-stock policy stipulated that—

In case the stock insured are already insured against loss by fire, or shall hereafter be insured against such loss, then and in that case this company shall not be liable for any loss or injury sustained in consequence of, or by means of any fire, or in any fire whatever.

The American Live Stock Insurance Company of Vincennes, Ind., opened an office in Philadelphia in 1850—John H. Frick, agent. In 1853 William F. McGlensey was agent of the Live Stock Insurance Company of Pittsburgh. A Northern New York Live Stock Insurance Company, with an office in New York city, was soliciting for Philadelphia risks.\*

May 22, 1854, the Philadelphia Mutual Live Stock Insurance Company was incorporated with a capital of \$50,000—initial instalment required thereon \$3 per share, and organization under the charter was begun—president Benjamin R. Miller, treasurer Henry Jones, secretary William F. McGlensey; directors Benj. R. Miller, Charles Acheson, John Philbin, Henry Jones, R. P. King, George Megee, Jos. R. Flanigen. With the difficulties of establishing an office for cattle insurance alone partly realized, it was decided to add fire insurance to the live-stock risks, and by an act approved April 22, 1855, the title was changed to the Philadelphia Mutual Fire and Live Stock Insurance

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\* Annual rates of premium of the Northern New York were:

Horses kept in the country and used for agricultural purposes, . . . . .	5 @	6%
" " in town and used for draught and general purposes, . . . . .	5 @	7%
" " in town and used for hackney purposes, . . . . .	5 @	8%
Stallions kept for travelling, . . . . .	6 @	8%
" " for breeding, . . . . .	6 @	10%
Asses or mules kept in town and used for general purposes, . . . . .	5 @	7%
" " in town or country, and used for private gig or saddle, . . . . .	6 @	7%
Cattle kept in the country by farmers, . . . . .	5 @	6%
For 6 months, three-fourths the annual rates.		
" 3 " one-half " " "		

Company, with augmented insurance franchises—optional capital \$300,000; policies to be issued with 1,000 shares of capital stock subscribed and \$5 per share paid thereon.

Policies were issued with indemnity for loss of stock by natural or accidental death. By the charter, premium could be part note or all cash. The conditions of the insurance were of this tenor or effect:—

The insured covenants and agrees that the stock insured shall be well fed, well taken care of, and well used; otherwise, the policy shall be void.

The company will not be responsible for any loss happening to any animal insured, by being allowed to go on the track of a railroad, or through the gross, wanton, and wilful misconduct of the insured, or through his gross or culpable negligence, or by means of his intoxication, or for any animal lost or stolen; nor for any injuries sustained by violent driving, riding, racing, or the process of pricking or docking, unless the same be specially indorsed in writing on the policy; or for those injured or destroyed by civil tumult, or owing to any disease with which they might be afflicted previous to being insured.

The insured shall not introduce, nor permit to be introduced among his stock, a sick or diseased animal or animals, which shall endanger the life or health of the animals insured.

In case of illness or accident, the insured must give immediate notice to the company's officer or agent, who will visit the diseased animal, and if contagion is feared, he will order such animal to be separated from the rest.

In every case of loss, five dollars shall be deducted from the amount insured,\* as salvage, and the skin and carcass shall belong to the insured.

The following order of premium was established\* :—

<i>Horses and Mules.</i> —Horses kept in the country and employed for agricultural purposes, . . . . .	6 to 7 per cent.
Private carriage, gig, buggy, and saddle horses, in country, .	6 to 7 “
The same used in towns and cities, . . . . .	7 to 8 “
Hack, or cab, or livery horses, in towns, . . . . .	8 to 10 “
Express horses, in cities, . . . . .	8 to 10 “
Dray or working horses, in cities or towns, . . . . .	7 to 9 “
Stage horses (through country), . . . . .	9 to 10 “
Canal horses (exclusively), . . . . .	10 to 12 “
Jacks, on farms, . . . . .	4 “
“ in towns or cities, . . . . .	5 “
Mules, on farms, . . . . .	4 “
“ employed for agricultural purposes, . . . . .	5 “
“ employed as dray animals, . . . . .	6 “
“ on canal (exclusively), . . . . .	8 “

\* The Agriculturist Cattle Insurance Company (England), founded in 1845, adopted this scale of premiums in 1851 :—

*Cattle.*—Dairy cows,  $7\frac{1}{2}d.$  in the £, [3.13 per cent.]; feeding stock,  $6d.$ ; young stock, under one year old,  $1s.$  in the £, above one year,  $7\frac{1}{2}d.$ ; bulls, not exceeding value of £20,  $1s.$  in the £, exceeding £20 and not exceeding £40,  $1s. 3d.$  in the £; prize bulls,  $2s.$  and upwards in the £, according to value and other circumstances; town cows, from  $1s. 6d.$  to  $2s.$  in the £, dependent on the mode of lodgment and general management; working oxen,  $7d.$  in the £.

*Horses.*—Agricultural, not exceeding £30 value,  $7\frac{1}{2}d.$  in the £, exceeding £30,  $9d.$  in the £; carriage horses and hacks,  $9d.$  and  $1s.$ , as they were under or over £30 in value; mares for breeding,  $9d.$  and  $1s.$  also; mules and ponies,  $9d.$  in the £; town and dray horses,  $1s.$  and  $1s. 3d.$ , as under or over £30 in value; race horses, hunters, military horses, and entire horses,  $2s.$  and upwards in the £ according to value and apparent risk; miners' and contractors' horses,  $1s.$  in the £ and upwards, dependent on the nature of their employment.

*Sheep.*—Breeding ewes,  $1s. 6d.$  in the £; feeding sheep,  $1s.$ ; rams,  $1s. 6d.$ ; prize rams,  $2s.$  and upwards. Protection against rot, according to estimated risk.

*Pigs.*—Breeding sows,  $2s.$  in the £; feeding or store pigs,  $1s.$ ; boars,  $1s. 6d.$ ; prize boars,  $2s.$  N. B.—A single animal may be insured.

In the first half of the year (January 1 to June 30) the compensation for dairy cows was two-thirds of insured value and one-third of salvage; in the second half of the year, four-fifths of insured value and one-fifth of salvage. If preferred, three-fourths of insured value and one-fourth of salvage were allowed for the whole year.

For other stock the compensation was two-thirds or three-fourths respectively of insured value and of salvage accordingly one-third or one-fourth. (Walford's Insurance Cyclopædia, Vol. I., p. 469.)



Stallions kept for breeding—privileged to travel, . . . . .	8 to 10 per cent.	
Race horses will be insured at special rates of premium.		
Sheep.—Sheep, throughout the whole of Pennsylvania, . . . . .	7	"
Sheep, if permitted to run at large, . . . . .	8	"
" to include loss by wolves or dogs, . . . . .	10	"
" to cover loss against destruction by wolves and dogs only, . . . . .	3	"
Cattle.—Cattle, if under forty dollars in value, . . . . .	4	"
If worth more than forty dollars, . . . . .	5	"
Working cattle (oxen), . . . . .	6	"
Cattle, if kept under fence, . . . . .	5	"
" if running at large, . . . . .	7	"
" of extraordinary breed, and imported stock, and prize bulls, . . . . .	6 to 8	"
" fed on swill or stabled contiguous to distilleries, are declined.		
Cows, in the country, . . . . .	5	"
" in towns or cities, . . . . .	6	"

Horses, cattle, hogs and sheep will be insured by marine policies, on lakes, rivers and seas, against marine loss only, subject to the same rules and restrictions as marine offices.

Stock driven on foot to Eastern or Southern markets, will be insured at  $1\frac{1}{2}$  per cent. on the amount insured.

Stock transported by railroad will be insured at special rates of premium.

Horses and cattle over fifteen and under one year old, will not be insured, except at extra rates of premium.

\* These rates were not inadequate, and in country organizations were largely receded from; but adequacy of rates is only one element of insurance adequacy.

The policy of the Girard Fire and Marine, designed for fire agencies, declared that "this company shall not be liable to make good any loss for property stolen or for damages caused by an earthquake, or wind, or hurricane."

Storm insurance, another rather rural than city provision, was operative in the northern part of the county of Philadelphia, through proximity to Bucks county. A policy insured against "loss by fire or storm." A part of the property insured was a saw mill on the Pennsylvania bank of the river Delaware, opposite an island in the river; the main channel passing between the island and New Jersey. February 6, 1857, rain began, accompanied by a warm south wind, which continued until the 8th, and extended not only in the neighborhood of the premises, but also a considerable distance up the river and its tributary streams, and which melted and carried off the snow upon the earth. February 8 the river had risen about eighteen feet, the ice was broken up and jammed between the mill and the island, and the ice was finally carried away by the current, taking a part of the saw mill with it.

In Common Pleas, Bucks county, (*Stover vs. Insurance Company*), Smyser, P. J., the rule of proximate causation was strictly maintained:

The first question that arises is, whether there was, under the facts stated, a storm which might be either the proximate or remote cause of the loss. The second is, was such storm the proximate cause of the injury? If both these questions can be answered affirmatively, the plaintiff will be entitled to judgment. If either must be answered in the negative, then the judgment must be for defendant.

The word "storm" does not seem to have acquired a legal sense or signification. In ascertaining its meaning, therefore, we must have recourse to the ordinary standard of definition and interpretation. Let us, then, resort to the lexicographers.

But let it be granted that the rain combined with the south wind was a storm such as the company undertook to insure against. We are then to remember that in insurance

the maxim *In lege non remota causa, sed proxima, spectatur* applies in all cases, without exception. This has long been established as the rule in marine insurance, and was applied to fire insurance in *Austin vs. Drewe*, 6 Taunt., 406, and in *Hillier vs. the Allegheny Mutual Insurance Company* (3 Barr, 473), and by parity of reasoning, should apply also to an insurance against a peril such as we are considering. . . . Unquestionably, I think the *storm* was only *causa causans* [of the injury], which is too remote (3 Barr, 271), whilst the *causa causata*, the immediate cause, was the *freshet*. . . . The loss here was not proximately caused by the peril insured against. Judgment is therefore entered on the case stated in favor of the defendant. (3 Phila., 38.)

In January, 1858, the last of the health insurance projects appeared and soon disappeared. It was the Mutual Health Insurance Society of Pennsylvania, with Silas S. Drew, president, and a "financial committee" of three at the head of it. The sickness policy included personal accidents. It was mutual without liability to assessment. For a yearly sum of \$2 @ \$10 the male member of initial age 14 to age 50, disabled by sickness or accident, was to receive \$2 @ \$10 per week during disablement; first week excepted. Female insurance was not extended above \$5 per year payment and \$5 per week benefit, and females were insured only against diseases common to both sexes. Such theory, that woman is of less health than man (though of greater vitality), was correct.\* But it was applied only in the limitation of the risk, not in the rating, which, as shown, was ungraded by age, though there was an arbitrary regulation of 25 per cent. extra charge for persons over 50 years of age.

While insurance pertains in principle to all casualties, insurance against accident to the person was almost unknown in the United States when the sixth decade of the nineteenth century opened. The Keystone Mutual Life, of Harrisburg, Pa., chartered in 1850, did, however, propose to insure against personal accident through steamboat and railroad travel at stated rates, but the proposition was essentially fruitless.

Philadelphia had not altogether ceased to take the initiative in new American insurance practices, but the spirit which originates had largely departed; in August, 1857, however, Tuckett's Monthly Insurance Journal, deeming that the time had come for the practice of accident insurance in the United States, recommended the consideration of the subject "alike to the capitalist and the philanthropist"—to the latter, in view of the large number of workingmen annually deprived temporarily, by injuries, of their ability to maintain themselves and their families. The whole subject embraced an insurance against accidental death, and a provision for a weekly allowance for stipulated part of a year in event of disablement by accidental injury. The risk was exclusively that of casualty *per se*, to which, in theory, neither disease nor gross negligence could be contributive. It was a question of a death ratio something about one in 1,500 annually among adult males in general, and as to casualties, non-fatal, but resulting in disabling injuries, they were multitudinous in number—one in fifty persons annually in the general male population was not too high an estimate, and with persons seeking insurance from consciousness of exposure to injury, the ratio would be much higher. The hazard was varied by pursuit and vocation, not by age; the less resistance to injury by the older

\* What is woman? Disease.—HIPPOCRATES.



personal constitution being compensated for by the greater prudence of age as compared with youth. Tuckett's Monthly cited the rates of a London office which had two general classes of casualty: 1, General Accidents, 2, Railway Accidents—the former having three Divisions—Non-Hazardous (*a*), Hazardous (*b*), and Doubly Hazardous (*c*); the latter, two Divisions—General Passengers (*d*), Regular Travelers (*e*). For *c* only one-half of the amount insured against death in *b* and *a* was accepted. For *c* a premium of £5 per annum secured £500 insurance, and £1 weekly allowance during disablement, or a fixed number of weeks, the casualty not being fatal; *b*, annual premium £3 8s., insurance £1,000, or weekly allowance £3; *a*, annual premium £2, insurance £1,000, or weekly allowance £5. The particular hazard of the general railway passenger was, at a rough estimate, about one-fifth of that of *a*, and so for like insurance or weekly allowance *d* was charged 8s., against £2 for *a*. The regular traveller was rated about 25 per cent. higher than the general passenger.

Increasing railway travel afforded the initial opportunity for the introduction of the practice. The North American Transit Insurance Company, the United States Travellers' Insurance Company, the Philadelphia Accidental Insurance Company, the Commercial Guarantee Company\* and the Ætna Insurance Company† were Pennsylvania charters approved in 1860. The Pennsylvania Insurance Handbook (1860), referring to such incorporations, said:—

So, after noting the course of insurance for one hundred and thirty-nine years in the city of Philadelphia, we reach at the present stage, schemes for underwriting upon disasters to travellers in this land of reckless steam conveyance, also upon general casualties incident to life, as well as hazards upon monetary obligations. Well, why not? In this there is but doing what was done at an earlier day—following the lead and example of Great Britain.

We endorse fully the principle that "whatever is averageable is insurable"; further than this, we even believe with Buckle, the philosophic historian of civilization, that the laws of average will vindicate themselves even in those acts which depend apparently upon the casual volition and impulses of man. We rank ourselves with those progres-

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\* An Act to incorporate the Commercial Guarantee Company.

SEC. 6. "That the Commercial Guarantee Company shall be empowered to guarantee the payment of commercial notes, acceptances, bills of exchange, or other kind of obligation or debt, for such rates of premium as may be agreed upon between the parties, and to accept, receive and hold all and any collateral or other securities therefor, and to execute such agreements, policies and other instruments of writing as shall or may be necessary to effect that purpose, and to collect such debts."

SEC. 7. Allows to hold real estate as security to amount of one-quarter of capital stock subscribed. This was to be 5,000 shares at \$50 each.

SEC. 10. "That after said corporation shall have declared a dividend of eight per centum on the whole amount of its capital stock, it shall pay into the treasury of the State ten per centum of such surplus profits of said corporation as shall either be declared by dividend or remain in said corporation undivided."

SEC. 11. "That the said company shall pay into the treasury of the commonwealth a bonus of one-half per centum on the capital stock of said company, and upon any increase thereof, payable in four equal annual instalments, the first payment to be made in one year from the date hereof; and the said corporation shall also pay such taxes upon dividends as are or may be provided by law." (Approved April 3, 1860.)

† SECTION 1. Capital stock to be \$50,000, with privilege to increase to \$200,000. To be organized as part mutual and part stock company in accordance with law of April 2, 1856.

SEC. 2. "In addition to the general powers and privileges as conferred in the foregoing section, the corporation hereby created shall have the power and authority to make insurances on the payments of rents accruing or to accrue from the leasing or letting or hiring of real or leasehold estate, and the use and occupation thereof, and to make all and every insurance or guarantee appertaining to the rents, profits or income, as aforesaid, and to let or re-let any premises, the rent or income whereof may have been insured, according to the provisions of this act; and also to insure the prompt and punctual payment of interest on bonds secured by mortgage or otherwise; and also to insure the prompt and punctual payment of promissory notes of individuals or corporations, according to the tenth condition thereof." (Approved April 3, 1860.)



sionists, enthusiasts if you will, who assert that the principles of indemnity will ultimately be applied to every evil contingency of life, fortune, or business, which associated humanity has the power of remedying; yet we confess to some misgivings in regard to the success of present novelties—novelties at least on this side of the Atlantic, and therefore, in view of the different circumstances of application, essentially so—even though they should be started under honest auspices. . . . A slight survey of the field will convince any one capable of arriving at a just conclusion on the subject, that travellers', general accident and monetary risks will show in the United States a very divergent experience from similar hazards in Great Britain; more varied than in other departments of insurance.

The Philadelphia Mutual Live Stock, which had become the Metropolitan (fire and live stock) ended in bankruptcy in 1862.

The act of March 30, 1860, incorporating the North American Transit Insurance Company, set forth that—

The object and business of the said corporation is prescribed to be the insuring of travellers by steamboat, railroad or other means of conveyance, against injury to body or loss of life, upon such terms as may be agreed upon by the contracting parties.

The insurable interest of the beneficiary was by the terms of the charter thus extended:—

Insurance may be effected for the benefit of either the insured or of such person or persons as he or she may direct.

No immediate action was taken under this charter, but by an act of April 20, 1864, the time for paying enrolment tax was extended six months from date of such act, par value of shares changed, and the franchises were augmented as follows:—

The said company shall have the power to insure all kinds of property, except real estate.

Meanwhile the Travelers Insurance Company of Hartford had begun. This company was incorporated June 17, 1863, to insure against the accidental loss of life, or personal injury, occurring while travelling by railway, steamboat and other modes of conveyance—hence the name of the corporation. Business was begun April 1, 1864, and the Travelers inaugurated accident insurance as a practicability in the United States; president James G. Batterson, vice-president G. F. Davis, secretary Rodney Dennis. June 16, 1864, the charter was amended, and as amended contained authority to make “all and every insurance connected with accidental loss of life or personal injury sustained by accident of every description.” A few months later the Travelers opened an agency in Philadelphia—William W. Allen, agent; and the North American Transit was organized October 6, by J. E. Peyton. With exception as to weekly allowance, the North American Transit adopted the same regulations as the Travelers; the ratings of the Travelers were, as to non-hazardous risks, of the following character:—

Annual Premium.	Fatal Accident.		Injury. Weekly Allowance.
\$3, . . . . .	\$1,000	or	\$5
3, . . . . .	500	and	3
5, . . . . .	1,000	“	5
15, . . . . .	5,000		—
15, . . . . .	—		25
25, . . . . .	5,000	and	25
50, . . . . .	10,000	“	40

*Railway and Steamboat Travellers.*

Annual Premium.	Fatal Accident.	Injury. Weekly Allowance.
\$1.35, . . . . .	\$1,000	—
2.50, . . . . .	1,000	and \$5

In its plan the Travelers did not comprehend battle, or military and naval, casualties to the person, which had become the purpose of some specific insurance organization. The railway passenger risk, *per se*, was a far less casualty hazard than that of the horse-carriage rider; but how much the casualty hazard of the railway brakeman was less than that of the soldier in a campaign, was a question which could not be decided. "Injury," in the insurance accident sense, was not a mere hurt, but such detriment as resulted in any temporary incapacity to pursue the ordinary avocations of life.

Of railway accidents attended with death, the reported annual average number in the United States for the ten years ended December 31, 1863, was 109, resulting in 146.5 killed and 543.3 wounded per annum. The reported steamboat accidents of the same period attended with fatality were of the average annual number of 26.6, with 322.6 killed and 117.1 wounded per annum. Total in the ten years was, 1,356 railroad and steamboat accidents, killing 4,691 persons, and wounding 6,614 others.

As to the further extension of the principle of marine average contributionship to non-maritime risks, we make this citation from the New York superintendent's report for 1864:—

No more judicious subdivision of the business of insurance among the several companies can be made than—

1. Fire and Fire-marine insurance companies.
2. Marine and Marine-fire insurance companies.
3. Life insurance companies, including annuities.
4. Casualty, General Accident, Guaranty, Fidelity, and other miscellaneous insurance companies.

The powers of the Casualty insurance companies "can be appropriately and judiciously enlarged so as to include all kinds of insurance not covered by the other three classes. This will open a wide and, in this country, a hitherto unoccupied field for insurance operations, comprehending indemnity against travelling and general accidents and sickness; accidents incidental to particular occupations; insurance for the fidelity and honesty of persons holding places of public or private trust; on the lives of horses, cattle and other valuable animals; against the breakage of plate and other glass; against hailstorms and hurricanes; insurance against invalidity and other misfortunes."

Such large inclusion of hazards having no analogy to one another under the common title Casualty, would be necessarily of the general nature of preliminary work struggling through confusion of ideas, until experience and the teaching of results shaped out something of directly applicable and appropriate methods. "Sickness" had been tried, and the attempts had failed; live-stock insurance had been another failure; "hurricanes" had been, in agricultural districts, an adjunct of fire insurance; invalidism, as a subject of the life policy, was a matter on the eve of immediate experiment in New York, and this was soon followed by an unsuccessful effort to start a fidelity insurance office.

At the close of 1864—the end of the first nine months' business—the Travelers had 227 agents in the field, and had issued 2,880 policies covering

\$9,065,500 of risk, of which 94 in number and \$396,000 in amount had terminated. Cash received for premiums and extra premiums \$49,289.13, paid for claims \$426.85. In this preparatory period the income exceeded the disbursements. From the Philadelphia office of the Travelers, as elsewhere, notice was early given that arrangements were in course of completion to provide tickets for travellers, purchasable at any railroad ticket office, for one or thirty days' travel; "insurance [fatal accident] \$3,000, or \$15 weekly compensation [injury], @ 10 cents for one day's travel." "Ticket policies may be had for 3, 6, and 12 months, in the same manner."

In addition to the annual policies which have been enumerated, policies for \$10,000, and term of five years, were issued. Limitation of time of weekly allowance, twenty-six weeks.

In January, 1865, the North American Transit had opened an office "for insuring against Loss of Life or Personal Injury to Travellers by Land or Water. Policies issued for a *Single Trip*, special journeys, voyages, &c., daily, monthly, quarterly or yearly; also against the Contingencies of Personal Hazard and against Loss of All Kinds except real estate. Policies issued at the Principal Office, 921 Chestnut street, Philadelphia, or by the Agents of the company in any of the cities of the United States. Capital \$250,000. Officers: Theodore Adams, president, J. H. Bradley, vice-president and actuary, James M. Conrad, treasurer, Lucien Peyton, secretary. Directors: Theodore Adams, James M. Conrad, Richard Wood, George T. Stedman, James Graham, Franklin Steele, Robert F. Taylor, William Colder. J. E. Peyton, Agent."

March, following, the American Exchange and Review noted that,—

The North American Transit Insurance Company of Philadelphia has received a check. Trying to get a supplement to its charter to allow any railroad company to sell its travellers' tickets, it was frustrated by the governor's veto. . . . The governor seems to view such insurance on life, or allowance in case of accidental disablement, as part of the damages for which railroad companies are responsible, and to deem the sums paid for such assurances by passengers as an increase of railroad fare!

Some months later this company was reorganized, and, with all obligations discharged, its assets were reported August 21, 1866, at \$157,772.43; and it was recognized as being in fair position to test the question as to whether an insurance company could be established upon the basis of personal accident risks alone. Numerous accident insurance projects were starting up throughout the country. Among the incidents of moral hazard attending the practice—and the moral hazard is the crucial test which tries the availability of any new insurance scheme—was the arrest of an agent of an accident insurance company for placing obstructions on the track of the Norwich and Worcester railroad.

At the close of 1866 the Great Eastern Detective Horse and Live Stock Insurance Company—principal office 108 South Fourth street—was organized to insure horses, mules and cattle against losses resulting from theft, and death by fire and other accident, and also natural causes; Charles Fraley, president, Dr. B. Becker, secretary. The Great Eastern continued about a year. There was now something of a revival in the attempt at live-stock insurance; the Hartford



Live Stock Insurance Company, originating with George D. Jewett, president of the New England Fire Insurance Company, had been incorporated May 30, 1866. It began with a paid-up capital of \$105,000, and upon commencing business opened an authorized agency in Philadelphia—F. & E. A. Corbin, State agents. Policies were against both death and theft, and the hazard of transportation; rates “based on an English experience of over fifty years.”

In the year 1866 the Travelers, of Hartford, received \$849,287.90 of new premiums on accident policies, and paid for claims under such policies \$304,345.85; but this year the Travelers ceased to be a distinctive accident office, beginning the issue of life policies in the year. Policies combining in one contract death (general) and disability were also issued.

This year the Railway Passengers' Assurance Company of Hartford, organized in 1865, was admitted in Pennsylvania.

So far as the inchoate accident insurance business had proceeded, it showed, as an aggregate result, expenses about double the amounts paid for claims, and the expenses about 60 per cent. of the premiums. Under such pressure the accident companies began to disappear. The Travellers' Insurance Company of Providence, R. I., (F. O. Allen, agent in Philadelphia,) was about discontinuing. Another experiment, the Provident Life Insurance and Investment Company of Chicago, an accident and life insurance office, had also been authorized to transact business in Pennsylvania, as also had been the New York Accidental, which was preparing to do a fire business exclusively. Other entrants of such kind within the State appeared for a brief time.

At the opening of 1867 the North American Transit became the North American Life and Accident Insurance Company.

The act of March 26, 1867, gave authority to the Courts of Common Pleas to grant charters of incorporation to persons associated for live-stock insurance purposes, *i. e.* “loss by death from disease or accident, or from being stolen.”

Plate glass was not yet specially underwritten in the United States, but in Philadelphia, sometime in the summer of 1867, this material was made the subject of a special insurance policy. A charter of date of April 12, 1867, had the following preamble as its first paragraph:—

Whereas, An association of citizens hath been formed in the City of Philadelphia, State of Pennsylvania, under the name and title of the United States Plate Glass Insurance Company of Philadelphia, for the purpose of effecting Insurances upon plate glass of all kinds and descriptions, and the object and operation of the said association requiring legislative encouragement and enactment, inasmuch as they are calculated to promote security and alleviate the accidents and losses to which those who possess plate glass are liable, therefore, to facilitate the transactions of the said association by the aid of an Act of Incorporation: Section 1, etc.

The capital stock was named at \$20,000 par, increasable to \$50,000. This plate-glass scheme was projected by Isaac Rindge: President, John Van Dusen; secretary and treasurer, I. Rindge. Directors: John Van Dusen, Howell Evans, M. B. Dean, J. Frank Cummings, E. E. Griffith. May 11, 1868, the following annual premium arrangement was adopted as to breakage of glass:—



1. Where is the property located that is to be insured?
2. Is the property owned or rented by the applicant?
3. For what purpose is the building occupied?
4. Is the building in which the risk is to be taken a corner?
5. How broad is the street?
6. How broad is the sidewalk?
7. What distance is the glass above the pavement?
8. Is the glass set in wood or a metallic frame?
9. What is the quality of the glass?
10. How long has the glass been set?
11. Has there ever been a breakage in the above-named windows or doors?
12. If so, how many and from what cause?
13. Is there gas or other illuminating material used in the window; if so, what kind, and how near the glass?
14. What kind of goods are kept in the window, if any?
15. Is there any insurance on the glass against breakage; if so, how much, and by what company?
16. Is the glass protected from danger at night; if so, in what manner?
17. If insurance is desired on mirrors, state size, cost, valuation; also state particulars as to manner in which it is held in position, and the use made of the room where it is in use.

## POLICY.

\$.....


No.....

This Policy of Insurance

*Witnesseth That*

THE UNITED STATES PLATE GLASS INSURANCE COMPANY OF PHILADELPHIA,  
Have received of — the sum of — and 100 Dollars, Premium for Insurance,  
(according to the tenor of their printed terms and conditions hereunto annexed,) which  
are hereby made a part of the contract of insurance, upon the property located as  
described in the application which forms a part of this contract of Insurance, viz.:

*Know all Men by these Presents,* That in consideration thereof, the Capital Stock, Estate and Securities of the United States Plate Glass Insurance Company, in the city of Philadelphia, shall be subject and liable to pay, make good and satisfy unto the assured, — heirs, executors, administrators or assigns, all damage or loss which shall or may happen by breakage to the property above mentioned, in the sum of — Dollars, unless the same shall be caused by fire, or misapplication of gas heat, breakage by earthquakes, repairs or alterations in premises, and subject to the conditions and stipulations herein endorsed, and which constitute the basis of this insurance, from the — day of — to the full end and term of — and also to the full end and term of any future time and times, for which a premium of insurance shall be paid and endorsed on this Policy, or otherwise, in writing, by the Secretary or other authorized officer of said Company, for the time being.

 This Policy shall expire at twelve o'clock at noon, on the — day of — in the Year One Thousand Eight Hundred and —, unless continued by endorsement or acknowledgment as aforesaid, and then the same shall expire according to the tenor of the said endorsement or acknowledgment.

*In Witness Whereof,* The common seal of the said Company is hereunto affixed, this — day of — 18 .

..... *President.*..... *Secretary.*

## CONDITIONS OF INSURANCE.

*First*—The premiums to be paid for insurance, except in special short time policies, are calculated at one year, and all persons desirous of continuing their insurance, shall, as long as the directors of the company agree thereto, make their future payments annually at the principal office or to some known recognized agent of the company, within fifteen days after the expiration of the year, or forfeit the benefit of the policy. On insurance for short terms the premium will be moderate as possible.

In the event of a claim arising under this policy, the insurance of such glass broken shall cease on its replacement or payment of the amount insured and specified in this policy. And such replaced glass is not insured by the company, unless the annual premium be again paid.



All renewals shall be considered as made under the original representation, unless varied by new representations, which, in all cases, shall be reported by the assured, and endorsed on this policy by the company.

*Second*—In case of a breakage, notice thereof must be given to the secretary within three days. The claimant must furnish the particulars of such breakage, how, and by what means it occurred, and when caused by carelessness or negligence, shall empower the company to sue such person or persons in the assured's name, according to the company's forms applicable to the case.

*Third*—That in the event of a breakage occurring to any glass insured by the company, it shall be at their absolute option and discretion either to pay the person or persons holding the policy or policies in respect to the property broken, the full amount insured, as specified in the application, out of the funds of the company, or make good such breakage with a glass of a similar manufacture and quality.

*Fourth*—All salvage must be preserved, the same being the property of the company, and the assured shall endeavor to prevent any further breakage or loss arising to such salvage, and shall allow the agents and employees of the company to have immediate access, if it shall be necessary, to save the salvage from further loss to the company.

*Fifth*—In case any person who shall have effected a policy with the company, shall, by himself or herself, or his or her agents or procurement, wilfully or knowingly break the glass so insured, or any part thereof, or wilfully or knowingly do, or concur in, or connive at any act, matter or thing whereby or by means whereof, the same may or shall be broken, as aforesaid, then, in any such case, the policy, and all payments made in respect thereof, shall be absolutely forfeited to the company, unless such policy and the property thereby insured, shall have been assigned *bona fide*, and for a valuable consideration, to a party not cognizant of, or implicated in the said act, as the case may be; and notice of such assignment shall have been given to the secretary of the company within one month after such assignment; in which case the policy shall only be valid to the extent of the interest of the assignee therein; and *provided also*, that if any person or persons shall wilfully or knowingly break any glass assured by the company, then, and in every such case, the party or parties holding the policy or policies in respect to the property so broken, shall either himself or themselves prosecute, or empower the company to prosecute to conviction, according to law, the person or persons by whom such damage shall have been committed; the directors reserving to themselves the right of demanding such prosecution; and in the exercise of that right, pay the expenses of said prosecution. Further, the insured shall either himself or themselves, when required by the company, give the name or names and address of such person or persons, and give to the company or directors, their agents or officers, and generally assist them with all information that may be necessary to enable the company either to prosecute according to law such person or persons, or to recover from him or them compensation for the loss occasioned to the company by such breakage.

*Sixth*—If any alteration shall be made, or change, or removal or other event occur in or about, or in anywise relating to any property insured by the company, after such insurance shall have been effected, so as to increase the risk or hazard of breakage, it shall be the duty of such person or persons, who, either originally or by assignment, shall be entitled to assurance, forthwith to leave said policy and notice of the fact, nature and extent of such risk, at the principal office of the company, and the directors shall thereupon be entitled to make such alterations in the terms of said policy, and endorse the same thereon, as they shall think, under the circumstances of the case, it would be proper. And in case any person or persons so entitled as aforesaid, shall, for two months or more after any such change, or until a breakage shall happen, whether within the time specified or not, neglect or omit to leave his policy and due notice, or shall, after leaving such notice, refuse to concur in the alteration in the terms of the policy consequent thereupon, which shall be proposed by the directors, such policy, and all payments in respect thereof, shall be absolutely forfeited to the company.

*Seventh*—No assignment of this policy shall be valid, unless endorsed hereon, and approved by the company within thirty days from the date of the transfer of property herein specified. The company reserve the right to approve the transfer or not.

*Eighth*—In case any difference or dispute shall arise between the insured and the company respecting a breakage, such difference shall be submitted to the judgment and determination of arbitrators, one to be selected by the company and the other by the insured; and the referees so appointed shall, previously to undertaking said reference, agree upon an umpire, (all of which shall be disinterested persons,) whose decision shall be final in case the referees should disagree, and the expense of such reference to go with the award.

## CHAPTER IV.

*Improved Classification of Accident Risks and the Premiums thereupon—Marine Accident Rates, Special Permits—Application for Accident Insurance—Association of Life and Accident Risks—The Accident Losses of the Travelers up to December, 1867—The Steam Boiler Explosion Risk—Appointment of City Inspector of Steam Engines and Steam Boilers—The American Boiler Insurance Company of Philadelphia chartered—The Hartford Steam Boiler Inspection and Insurance Company authorized in Pennsylvania—The Boiler Inspection a Guaranty of Safety—Discoveries through and by Tests—The Great Breadth of Difference between the Boiler Explosion Risk and the Live Stock Risk—The Hartford Live Stock Insurance Company and its Perils—Premiums and Losses of the Hartford Steam Boiler Inspection and Insurance Company (1868)—Taxes paid in Pennsylvania upon the Minor Insurance Premiums—The North American Life and Accident discontinues its Accident Department—The City Boiler and Engine Inspection in part superseded by the Hartford Company's Certificate of Inspection—Failure of Live Stock Companies and Disappearance of Live Stock Insurance Agencies from the City—The Residium of the New Insurances in the City (1870)—A Pennsylvania Adjudication upon Accident and Accident Insurance—The New Insurances in the City in 1873—Experience Data up to the Close of 1873 as to Plate Glass Insurance, Steam Boiler Inspection and Insurance and Accident Insurance. (1867-1873.)*

FROM the diversity of the jeopardy the accident insurance companies early realized the need of "a more accurate and well-defined classification," even after these four classes had been arranged, viz., Ordinary, Special, Hazardous, and Extra Hazardous; the last the subject of special contract. The Special class premium was 25 per cent. higher than the Ordinary, and the Hazardous premium double the Special. Then the classes were extended to Preferred, Ordinary, Medium, Hazardous, and Extra Hazardous.\*

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\* Travelers Insurance Company: Class No. 1.—Preferred, \$5 per \$1,000, and \$5 weekly indemnity. Policyholders insured under the Preferred class will not be entitled to recover for injuries received in any employment, or by any exposure, either more hazardous in itself, or classified by this company as more hazardous, than the occupations named in the Preferred class:—

Accountant, hotel keeper or proprietor, schoolmaster, insurance officer or agent, minister, watchmaker, and 43 other occupations.

Class No. 2.—Ordinary, \$7.50 per \$1,000, and \$5 weekly indemnity. Persons insured under Ordinary rates will not recover for hazards classified as Medium, Hazardous or Extra Hazardous, but this rate will cover all risks of the Preferred class:—

Actor, apothecary, brickmaker, confectioner, currier, farmer, and 163 other occupations.

Class No. 3.—Medium, \$10 per \$1,000, and \$5 weekly indemnity. The Medium rate will cover all the hazards classified as Ordinary or Preferred, but will not protect the policyholder when exposed to risks hazardous or extra hazardous in themselves, or rated as such under the classification:—

Agricultural implement maker, barkeeper, city fireman, drover, foundryman, hostler, and 73 other occupations.

Class No. 4.—Hazardous, \$15 per \$1,000, and \$5 weekly indemnity. The premium for Hazardous class will cover all classes previously mentioned, but not those rated as Extra Hazardous:—

Base-ball player, canal boatman, fireman on locomotive, horse shoer, mechanic generally, covering all trades; miner, underground, and 32 other occupations.



Application for insurance against accidents:—

- Weekly indemnity retired under all policies when the insured is on the high seas, in foreign countries, or in any locality remote from any agency of the company; this being made necessary in consequence of the great difficulty of obtaining satisfactory proofs in regard to total disability.



*Declaration.*—I, ———, being desirous of effecting an insurance with ——— do warrant the above statement to be true; and I hereby agree that this declaration and warranty shall be the basis of the contract between me and the said ——— insurance company, and that the policy hereby applied for is accepted, subject to all the conditions, classifications and provisions prescribed therein.

Dated this ——— day of ———, 18 .

Signed, .....

*Witness:*

As life and accident risks became associated, weekly indemnity for injury began to be rated with the general whole-life risk. Thus:—

Annual premium to insure \$1,000 in case of death from any cause, with \$5 per week compensation for accidental injury causing total disability:—

Age.	Preferred.	Ordinary.
15 to 20, . . . . .	\$15.16	\$15.91
30, . . . . .	19.06	19.81
40, . . . . .	25.75	26.50
50, . . . . .	38.18	38.93
60, . . . . .	60.84	61.59

Up to the close of December, 1867, the Travelers had sustained over 8,000 losses, average \$87.50, and occurring to one out of fourteen policyholders. Accident insurance as an active speculation was ending.

Steam boiler explosion, a risk distinct from the insurance fire hazard and a constant apprehension, suggested a specific insurance provision, but as more dangerous to life than ordinary conflagration, called more urgently for defence against occurrence. In the manufactories of Philadelphia there were now about 1,600 steam engines, and an act of assembly of 1864 provided for the appointment of an engine and boiler inspector in and for the city.\* The American Boiler Insurance Company, "for the purpose of insuring against loss by the explosion of steam boilers"—incorporators, John C. Cresson, J. Edgar Thomson, Daniel H. Rockhill, James Harper, William G. Moorhead, William H. Gatzmer, Franklin S. Wilson, J. E. Kingsley, Henry G. Leisenring,—was chartered April 11, 1866, but no organization under such charter took place, and mere indemnification of property loss was not the provision to be established. The Hartford Steam Boiler Inspection and Insurance Company, a Connecticut organization incorporated in 1866, was authorized in Pennsylvania in 1868; F. & E. A. Corbin, Philadelphia agents. Insurance with this office was secondary to inspection. It took upon itself the supervision of the boiler, and guaranteed its safety, paying for all damage to boiler, building and

\* Act to authorize the Appointment of an Inspector of Stationary Steam Engines and Steam Boilers, in and for the City of Philadelphia.

SEC. 2. "It shall be the duty of the inspector carefully to examine and inspect all stationary steam engines and steam boilers, erected, or in use, at the time this act goes into effect; and thereafter, no stationary steam engines, or steam boilers, shall be erected and put into use or operation, in the city of Philadelphia, without being first inspected and certified to be competent and safe, under the hand and seal of the officer created by this act; and he shall furnish to the owner, proprietor, or other person using such engine or steam boilers, a certificate under his hand and the seal of his office, that it has been so inspected and found to be competent and safe; he shall, from time to time, and as often as he may deem expedient, examine all, or any, such engines or steam boilers, in use or operation, and, for such purpose he, together with his assistants, may enter upon any premises, and require the removal of any part of the building, fixtures, or machinery, and he shall note in a book, to be kept for that purpose, the result of every such examination; and he shall, at least once in every year, make such examination, and give certificate of the result thereof, whenever required."

Section 4 makes the penalty for using engines or boilers without the certificate of the inspector, \$5,000 (not exceeding), or imprisonment not exceeding two years. (Approved May 7, 1864.)

machinery within the policy sum, should explosion incidentally happen despite of all precaution and attempted prevention. It was a method in mechanics rather than in economics. The chief function of a fire, marine or life office is to pay losses; the chief function of this expedient was to avoid losses.—Testing pumps, gauges, inspection expenses, trials of materials, etc., took the place, as “costs,” of “loss or damage”; the latter amounting to 2 @ 4 cents per annum per \$100 insured or secured.\*

Insurance-wise, and as an economic probability, the jeopardy of a steam boiler is a very small quantity or fraction in comparison with the jeopardy of a horse or mule. The Hartford Live Stock Insurance Company, also represented in Philadelphia by F. & E. A. Corbin, was destined to demonstrate the peril of writing live stock through the ramifications of extended agencies. It received in 1867, with 790 agents, \$427,918.71 for premiums, writing upon \$8,980,595 of risk, and paid that year for losses \$179,864.20, with \$9,706 unpaid. The capital was impaired, \$13,240.60 at the close of 1867, upon an estimate of 35 per cent. of premium for reserve. While 10 per cent. of premium would have been a sufficient reservation for an inspection and boiler company, 100 per cent. would not have been enough for such a live-stock insurance company; and it was a meritorious experiment. Then in the first six months of 1868 the normal force of the hazard showed itself in losses in excess of a quarter million dollars, and monthly increasing. Swiftly the capital stock of the Hartford Live Stock was consumed, and the company was brought to a sudden close.

The Hartford Steam Boiler Inspection and Insurance Company insured in 1868 (total business) \$3,911,400 at an average premium of 98 cents per \$100, and paid \$788.31 for losses.

For year ended November 30, 1868, taxes were paid in Pennsylvania by the companies writing the minor insurance policies upon only \$103,356 of premiums. The accident department of the North American Life and Accident was discontinued in 1868.

By the following enactment the inspection of the Hartford Steam Boiler Inspection and Insurance Company was made of the same legal authority as that of the city inspector of steam engines and boilers:—

An Act to authorize the Hartford Steam Boiler Inspection and Insurance Company to give Certificates of Inspection in and for the City of Philadelphia.

*Whereas*, By act of assembly, approved the 7th day of May, 1864, the mayor of the city of Philadelphia is directed, by and with the advice and consent of the select council, to appoint an inspector of stationary steam engines and boilers, et cetera, in and for said city, and a penalty is imposed upon any one who shall maintain, keep in use or operation, or put in use or operation, any stationary steam engine or steam boiler within the said city, without having first received a certificate that the same has been found safe and competent from said inspector; and the councils of said city are authorized to make all needful rules and regulations, including the appointment of assistant inspector, for the purpose of carrying said act into effect; and

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\* The following is a summary of inspections by this company in August, 1868, and the detections: Visits of inspection made, 225; number of boilers examined, 416; external examinations, 147; internal examinations, 84; number tested by hydraulic pressure, 30; number of defects discovered, 57—dangerous, 14; furnaces out of shape, 20; fractures, 4—2 dangerous; burned plates, 5—2 dangerous; blistered plates, 21—4 dangerous; cases of incrustation and scale, 35; cases of internal grooving, 2; water gauges out of order, 16; blow-off apparatus out of order, 2; safety valves overloaded, 31—3 dangerous; pressure gauges out of order, 28; cases of deficiency of water, 2—both dangerous.



*Whereas*, By ordinance passed by the select and common council of said city, approved the 13th day of July, 1868, the number and duties of said assistant inspectors have been specially set forth in compliance with said act of assembly; and

*Whereas*, The Hartford Steam Boiler Inspection and Insurance Company have paid the customary fees and license for doing business in this State, as required by acts of assembly, and by their system of periodical inspection four times a year accomplish by precisely the same, and even more stringent precautions, all that is exacted by the said ordinance and act of assembly, so far as said act and ordinance may refer to steam boiler attachments and steam boiler inspections, and in addition guarantee the holders of its policies from loss arising from explosion of steam boilers, and has a direct pecuniary interest to have full, fair and critical inspections;

SECTION I. Be it enacted, etc., That the chief inspector appointed under said ordinance and act of assembly is hereby authorized and required to accept the certificate of inspection of said steam boiler inspection company, in lieu of the examination now required by law, and to endorse his approval confirming the same, or give a receipt therefor; for which service he shall receive a fee of one dollar in each case; and any person or persons possessing such certificate, endorsed as hereinbefore mentioned, or a receipt therefor, as hereinafter prescribed, the same being unrevoked, shall be exempt from the pains and penalties of the above recited act of assembly, and ordinance passed in pursuance thereof: *Provided nevertheless*, That where the inspectors of said company shall decline to continue an insurance, or shall cancel the certificate of inspection, in consequence of the failure of the party to comply with the requirements of the said act of assembly or ordinance, or in consequence of the insecure character, imperfect safeguards or careless management of any stationary steam engine or boiler, they shall forthwith notify the chief inspector of said city in writing of the refusal and grounds therefor.

SEC. 2. If any inspector of the said company shall neglect to give the notice required by proviso to section first of this act, or shall effect an insurance on any stationary steam engine or boiler within the city of Philadelphia, not provided with the safeguards required by the aforesaid ordinance, or shall knowingly permit an insurance to continue upon any stationary steam engine or boiler in said city, not furnished as aforesaid, he shall be deemed guilty of a misdemeanor, and on conviction in the Court of Quarter Sessions of the said county, shall, for each offence, be sentenced to pay a fine not exceeding \$5,000, and to undergo imprisonment in the jail of said county, either with or without labor, as the court may direct, for a term not exceeding two years.

Approved July 7, 1869.

The State legislature, which had once excluded the non-State insurance corporation, now not only admitted such, but conferred such extraordinary power upon a Connecticut corporation. This inspection and insurance company paid taxes for year ended November 30, 1869, on \$6,722 of Pennsylvania premiums. For the same year the *Ætna Live Stock*, of Hartford, Conn., (William C. Ward, general agent, Philadelphia,) paid upon \$15,062 of Pennsylvania premiums. With the discontinuance of the *Ætna Live Stock* at the close of 1869, this branch of insurance again disappeared from the city. Upon the failure of the Hartford Live Stock, the *Ætna* had increased its rates an average of 30 per cent.; and, limiting its risks to two classes, established a system of inspection with rigorous scrutiny. Its expenses were about 45 per cent. of premiums—maximum commission to agents 25 per cent. The *Ætna Live Stock* had a capital of \$112,500 cash and \$37,500 notes. It was projected by persons experienced in other departments of insurance. The business was a loss upon the new rates as well as the old ones. This company continued for sixteen months.

In 1870 the representation of accident insurance in Philadelphia was reduced to the Travelers Insurance Company and the Railway Passengers' Assurance Company of Hartford. Plate-glass insurance was limited to the United States Plate Glass Company—cash capital, as per report to the auditor-general, \$19,600.



Accident insurance law, in its Pennsylvania form, was first enunciated in a case growing out of the sudden death of one of the accident policyholders of the North American Life and Accident, action for debt having been commenced December 4, 1868, against the company to recover an insurance on plaintiff's husband, Garrett S. Burroughs, in the sum of \$5,000—policy dated December 13, 1866—to be paid “in case of death resulting within twelve months from the date of this policy, in consequence of accident.”

*Provided always*, That no payment shall be due, and no claim be made, under this policy by any one on account of such accidental loss of life of the assured, unless notice of such injury and of such death shall be given to the company within thirty days after the happening of either, and sufficient proof furnished said company of such injury, and that such death was caused solely by such accidental injury, and ensued within three months from the happening thereof.

*And provided further*, That this insurance shall not extend to, or cover, or embrace, any death caused by natural disease, surgical operation, unreasonable imprudence, . . .

Among the conditions were these:—

2. For the purpose of identification, notice must be given in writing to the company, at its office in Philadelphia, by the party insured, of any change of residence, name, occupation or business.

3. In the event of any change of avocation, occupation or business, either the policy shall be cancelled and the proportion of the premium for the unexpired term returned, or the difference for the extra hazard paid by the assured and endorsed on the policy; otherwise this policy shall be null and void.

4. In case of injury producing death of the assured, happening as aforesaid by accident, within the meaning of this policy, the party for whose benefit the insurance is made shall, within thirty days thereafter, give notice of the same in writing, with sufficient proof of such injury and of death.

In his application for insurance, the insured stated that his “profession or occupation” was “earthenware manufacturer.”

The insured died from peritonitis as proximate or immediate cause, such disease having its apparent origin in an injury received while casually assisting at the work in a hay field.

At Nisi Prius. Read, J.: . . . . . Now, in this case, outside of the question of peritonitis, the question, I think, for you to decide is, whether that alleged blow caused the death. If you believe there was such a blow, and that it caused such a swelling as described by Dr. Welling, when the other parties' physicians were not present, all they said is entirely speculative—entirely so; and when a physician swears to a distinct fact, and that distinct fact arises from a cause—a sufficient cause—satisfactory to him, given by the party himself, the question for you is, first, whether he was so injured, having received such a blow; whether it was equal to the kick of a horse, or a blow struck below the belt—a practice not allowed by prize-fighters—and it caused death; although death may not have occurred for several days. If you decide that the blow was inflicted, and that the blow was an accident, then there was sufficient cause to bring this lady within the provisions of that policy.

The verdict was for plaintiff, for \$5,802.50.

On certificate from Nisi Prius—Supreme Court, Williams, J.:—

In this case the jury have found, on sufficient evidence, that while the insured was pitching hay, the handle of the pitchfork slipped through his hands and struck him on the bowels, inflicting an injury which produced peritoneal inflammation, in consequence of which he died; that the blow which he received from the fork-handle was an accident and the cause of his death. The case, therefore, comes directly within the terms of the policy declared on. But it is objected that the plaintiff is not entitled to recover. . . . . The policy provides that no payment shall be due, and no claim made under it, on account of the accidental loss of life of the assured, unless notice of the injury and of the death shall be given to the company within thirty days after the happening of either, and sufficient proof furnished said company of such injury, and that such death was caused

solely by such accidental injury, and ensued within three months from the happening thereof. . . . Notice was given to the company on the 12th of August, 1867, within the time limited by the policy, that the assured came to his death by accident on the 14th of July, by an injury received in the bowels while working in a hay-field, producing peritoneal inflammation, which resulted fatally. And in proof thereof, the affidavits of the plaintiff and attending physician were subsequently furnished to the company. No objection was made to the affidavits, on the ground that they were not furnished in time, and, under the evidence, no such objection could have been properly made. The only objection then and now made to the affidavits is, that they do not show that the assured "died as the result of any injury received by accident." But, if the facts stated in the affidavits are true, why do they not make out a *prima facie* case of death resulting from an injury occasioned by accident? The plaintiff's affidavit expressly avers "that her late husband died in consequence of an accident which happened on the 9th of July, 1867, in this wise: Said deceased, on the day aforesaid, was assisting in unloading hay in Hopewell township, New Jersey, at his grandfather's, where he had gone on a visit, when he accidentally strained himself. He immediately complained of severe pain, and a physician was summoned. All was done for his relief and recovery that could be, without success. He lingered till the 14th of said month, when he died, and the said accident was the direct cause of his death." And the attending physician, after stating in his affidavit that he personally knew the assured, says that he "knows that he was killed by accident on the 14th day of July last; and further, that the accident was occasioned by exertions made in assisting in hauling in hay, which injured the abdominal muscles and produced peritoneal inflammation." . . . But it is said that if the assured strained himself while unloading hay, it was not an accident insured against within the meaning of this policy. Why not, if he *accidentally* strained himself, as is averred in the plaintiff's affidavit? Why is not death resulting from an accidental strain as much within the meaning of the policy, as death produced by any other accidental cause? If the injury be accidental, and the result of it death, what matters it whether the injury is caused by a strain or a blow? An accident is "an event that takes place without one's foresight or expectation; an event which proceeds from an unknown cause, or is an unusual effect of a known cause, and therefore not expected; chance, casualty, contingency." And accidental signifies "happening by chance, or unexpectedly; taking place not according to the usual course of things; casual, fortuitous. We speak of a thing as accidental when it falls to us as by chance, and not in the regular course of things; as an accidental meeting, an accidental advantage, &c." (Webster's Dictionary, *ad verba*.) If, then, these words, as used in the policy, are to be understood in their plain and ordinary meaning as thus defined, they include death from any unexpected event which happens as by chance, or which does not take place according to the usual course of things. And there is no more reason for regarding an injury of the abdominal muscles caused by an unexpected blow, an accident, than an injury caused by a casual and unlooked for strain. If the death of the assured resulted from an accidental strain, then it was not "caused by natural disease." And if it resulted from any accidental strain, it does not follow that it was caused by "unreasonable imprudence" or "the doing of any unlawful act," and there is nothing in the affidavits from which such an inference can be fairly drawn. . . .

Whether the plaintiff was entitled to recover on showing that the death of the assured resulted from an injury of the abdominal muscles, caused by a blow, and not by an accidental strain, is another question raised by the defendants' third point, which we shall now proceed to consider. No objection was made to the admission of the evidence on the ground of variance, and the only question is, whether the plaintiff, under the preliminary proof, was entitled to recover for death resulting from an accidental injury, shown to have been caused by a blow instead of a strain. The policy does not expressly require that preliminary proof shall be furnished of the mode and manner in which "the injury producing death" was inflicted, but only that "sufficient proof be furnished of *the injury*, and that such death was caused solely by such accidental injury." The affidavit of the attending physician describes *the injury* which the assured received, and in consequence of which he died, precisely as it was proved by his testimony on the trial. The only difference between them is, that in the former the cause of the injury is not stated otherwise than by terming it "an accident," and in the latter it is shown to have been caused by an accidental blow from the handle of a pitchfork. But the injury, as described in both, is in all respects the same, and its results are the same. If, then, "the injury producing death" is correctly described in the preliminary proof, why shall not the plaintiff be allowed to recover, though she may have imputed it to a wrong cause—to a strain instead of a blow? It seems to us that under the terms of the policy the plaintiff is entitled to recover, if she has given sufficient preliminary proof of the injury, though she may have unwittingly ascribed it to a wrong cause. It is not such a variance as should be regarded as fatal. Undoubtedly there must be sufficient preliminary proof of the injury, that it was accidental, and the cause of the death of the assured. These requisites are all found in the preliminary proof furnished by the plaintiff in this case, and they are all that



the policy requires. If the injury, as described in the affidavit of the attending physician, was the cause of the death of the assured, it is a matter of no consequence, so far as respects the liability of the company, whether it was produced by an accidental strain or by an unexpected blow from the handle of a pitchfork.

But it is further objected to the plaintiff's right of recovery, that the assured did not give notice of the change of his occupation, nor pay the difference of premium for the extra hazard, as required by the second and third conditions of the policy, and therefore the contract became null and void. But there was no evidence that the assured had changed his occupation or business, and the learned judge before whom the case was tried rightly refused to submit the question to the jury. The assured, as was shown, while on a visit to his grandfather, had assisted in hauling in and unloading hay. But this was not a change of his occupation or business within the meaning of the policy. To give to the word such a construction would prevent the assured from performing any act or service outside of his usual avocation or business without rendering the policy null and void. Such a construction would be unreasonable and absurd, and the defendants' first and fifth points were properly refused.

Judgment affirmed. (19 P. F. Smith, 43.)

During 1873 the minor insurances were represented in Philadelphia solely by the United States Plate Glass Insurance Company of Philadelphia, the accident department of the Travelers, and the Railway Passengers' Assurance Company of Hartford, with the Hartford Steam Boiler Inspection and Insurance Company. Hartford was now leading in the development of new insurance practices. The United States Plate Glass Insurance Company, according to the first annual report of the Pennsylvania insurance commissioner, received by December 31, 1873,—*i. e.* in six years and four months' business,—\$66,164.10, and paid for losses in the period \$49,767.97. It wrote during 1873 risks to the amount of \$394,739, premiums thereon \$17,859.32—an average rate of 4.52 per cent.; indicating this kind of insurance to be at a higher average rate than the other branches. (In the case of such inland and marine risks, however, as were carried by the Anthracite, the average premium on those written in 1873 was, as has been stated, 4.84 per cent.) "Salvage and stock on hand \$8,773.33," was one item in the assets of this plate glass company. Premium income in 1873 was "\$24,226.67," losses paid \$11,123.29 (unpaid \$680); paid for brokerage \$4,108.52.—The Hartford Steam Boiler Inspection and Insurance Company wrote \$2,720,150 of risks in Pennsylvania in 1873, premiums thereon \$23,687.36, inspection fees \$10,151.73; paid for losses \$360.44. The inspection, therefore, appeared as nearly adequate to the elimination of the insurance. As a question of comparative *insurance* premium, the breaking of plate glass was a hundred times greater hazard than the explosion of a steam boiler.—From the opening of its agency in Philadelphia in 1864 to the close of 1873, the Travelers issued 28,958 accident policies in Pennsylvania, insuring \$97,534,200, receiving \$549,879.53 of premiums thereon, and paying \$158,091.28 for losses and claims, or 16 cents for every \$100 of risk taken; Pennsylvania policies issued in 1873, 4,272, insuring \$13,954,800. The Railway Passengers' had received by the close of 1873, as Pennsylvania premiums, \$202,954.96 since beginning in the State, and incurred \$65,303.69 of losses and claims.



## CHAPTER V.

*Miscellaneous Insurances established by 1874 irrespective of the Fate of the Earliest Companies—The Pennsylvania Boiler Insurance Company—Accident, Plate Glass and Steam Boiler Business in Pennsylvania in 1874—Real Estate Conveyancers organize a Title Inspection Company—The Real Estate Title Insurance Company—Its Methods—What is and what is not an Insurance Company?—Special Centennial Exposition Accident Rating—Discontinuance of the Hartford Accident Insurance Company—The Knickerbocker Casualty, of New York, begins in Philadelphia—Railway Employés' Association, Annual Dues for Death and Accident Payments—The Casualties of Railway Employés—The Operations in Miscellaneous Risks in Pennsylvania in 1877—Philadelphia Steam Engine and Boiler Inspection—Accident Rate for Commercial Travellers reduced—The Railway Passengers' Assurance Company of Hartford discontinues—The Knickerbocker Casualty writes Plate Glass and Steam Boiler Risks as well as Accident Risks—An Inquest into a Planing Mill Steam Boiler Explosion, Finding and Statement of the Jury—The Fatal Accidents in Philadelphia in the Five Years 1875-79—Definitions of the Word "Accident." (1874-1879.)*

WHILE the miscellaneous insurances which had recently been brought into practice showed limited progress at the opening of 1874, there were yet indications that such forms of risk assumption would be established in the United States, whatever might be the fate of the companies going through the ordeals of the preliminary trials.

An act incorporating the Pennsylvania Boiler Insurance Company had been approved April 3, 1869; capital \$500,000, with privilege to increase to \$1,000,000; then, by a supplement of date of May 12, 1871, the capital was reduced to \$100,000, with authority to begin business when 10 per cent. of the capital was paid in, and with privilege to increase to \$300,000. Further, an act approved April 4, 1873, authorized the Pennsylvania Boiler Insurance Company to give certificates of inspection in and for the city of Philadelphia, and required the city inspector to accept such certificates. Section 2 was in the same terms as the like section of the act of July 7, 1869, giving the like certification authority to the Hartford boiler and steam-engine inspection company. An office was opened on Walnut street, and, claiming assets to the amount of \$100,000, the Pennsylvania Boiler Insurance Company did not continue long enough to appear in the State department report for 1874.

Upon its organization, the Metropolitan Plate Glass Insurance Company of New York obtained a Pennsylvania license; Duy & Woods, Philadelphia agents. With the *éclat* of quick subscriptions to capital stock of \$200,000, and immediate full cash payments thereon, another Connecticut casualty office

was projected, called the Hartford Accident Insurance Company, which also applied at once and obtained a Pennsylvania license; L. Kauffman, Philadelphia agent. As to the five occupational classes into which the general accident jeopardy was divided, the rates for "insurance" alone, or "indemnity" alone (twenty-six weeks' maximum payment in total disability), or for death combined with "indemnity," were the same in the Hartford as in the Travelers.

Business in Pennsylvania in 1874 of the agencies of the minor insurances was as follows:—

ACCIDENT.			
	Risks written.	Premiums received.	Losses paid.
Hartford, . . . . .	\$ 324,500	\$ 2,013 25	
Railway Passengers, . . . . .		17,038 25	\$ 6,682 14
Travelers, . . . . .	12,816,300	75,280 34	26,559 65
PLATE GLASS.			
Metropolitan, . . . . .	\$7,658	\$275 45	
STEAM BOILER.			
Hartford, . . . . .	\$2,758,068	\$23,864 65	\$350 64

(Inspection fees for Pennsylvania business of the Hartford Steam Boiler Inspection and Insurance Company this year were \$10,227.70; the payments for inspection expenses were not specified in the report of the State insurance department.)

Real estate conveyancers (not real estate owners) began in 1875 to organize in the city a title inspection company with an insurance affixture, under the act of April 29, 1874, an act which originated this kind of corporation in the United States, and was an instance of legislation in advance of practice or usage. The scheme was a protection of the conveyancer or transferee against the consequences of professional incompetency or mistake, or incompleteness of title. The insurance paper then called the Observer made this explanation of the project:—

Under the present system of transfers, the "searches" necessary to be made by a conveyancer in making title papers are no less than *ten* in number, including the courts, record office, prothonotary's office, tax office, &c. This, of course, is troublesome, expensive, and in a measure uncertain. It is provided that the responsibility of certain officials, whose mission it is to vouch for these searches, only extends five years beyond their term of office. Hence it is safe to say that evidences of title are decidedly unreliable, and when the time named has expired, all responsibility for loss expires with it. This the new company proposes to remedy. As we understand their plan, it is proposed that a daily bulletin or abstract from all the courts be kept in the company's office, so that when a "search" is necessary it can be made quickly, at less expense, and be *guaranteed*. Again, in the matter of titles, it is proposed that the company shall have the services of the best legal talent to be found; that their examination of title shall be exhaustive and complete, and that the purchaser shall receive a pledged guarantee, or more correctly speaking, perhaps, shall receive insurance of the title against all possible litigation, dispute, or loss.

Accordingly the Real Estate Title Insurance Company was founded; nine-tenths of the stockholders were conveyancers, and they placed their briefs of title at the service of the company, and the preparation was begun for making full abstracts of all the recorded deeds and mortgages in the city. Titular character was further indicated by *property* indexes. For such safeguard the transferee of the conveyed property paid fee or premium, and the guaranty

continued until change of ownership. In the insurance respect, such a corporation had some analogy to a steam-boiler inspection and insurance company; that is to say, it was rather a creator of precautionary safeguards than indemnifier of loss. In event of the courts holding that a conveyancer would not be responsible for passing a worthless title when not happening through absolute negligence, such a corporation would become a great conveyancing establishment. By Section 12 of the act of April 4, 1873, "*every* insurance company," however composed, "conducting *any* branch of insurance business" in the State, was to make annual report to the State insurance commissioner; such enactment was sufficient to comprehend the Hock Age Mutual Beneficial Association as "an insurance company"; it was not construed as including the Real Estate Title Insurance Company as a corporation to report to the State insurance department.

Meeting whatever apprehension might possess persons attending the Centennial exposition in 1876, an insurance for thirty days against fatal accidents to the amount of \$3,000 was issued by one or more accident insurance companies, for which \$5 was charged; that is to say, that the chance of losing life in such special jeopardy was charged at about one in fifteen hundred. Insurance proper is not for the cultivation of ignorant apprehensions, but is rather an inducement to a rational estimate of probability. The Hartford City Guards took out \$100,000 in accident insurance to cover nine days spent at the exhibition.

The Hartford Accident Insurance Company, which had written 398 policies in Pennsylvania in 1875, insuring \$1,152,500, discontinued in 1876. It sustained twelve losses in Pennsylvania in 1875, to the amount of \$404.29, against which were \$8,166.28 of premiums.

Early in 1877 the Knickerbocker Casualty, which had begun in New York, May 1, 1876, was authorized to do business in Pennsylvania; C. A. Duy, agent. As a corrective of the deficiencies of the assessment method of the Brotherhood of Locomotive Engineers, General Manager Wooten, of the Reading railroad, submitted a substitute for such railroad provision for death and accident, proposing annual prepayments, strengthened by a \$15,000 contribution of the company to apply in death payments, and also one of \$10,000 to apply in accident benefits, resting upon annual dues, prepaid, viz.: Engineers, 0.8 per cent. of death payment; conductors and firemen, 1.5 per cent.; brakemen, 1.715 per cent.

*Death Payment.*

Engineers, . . . . .	\$3,000
Conductors and firemen, . . . . .	1,000
Brakemen, . . . . .	700

For weekly benefits during disablement, in a period not exceeding six months, from railway accident solely, the rate was one dollar per year for each dollar of weekly benefits, without difference as to occupation; the amounts of the weekly benefits were six, nine or twelve dollars. Death rate of the United States Railroad Mutual Life Association was about 2 per cent. per annum. A less rate of death contingency was provided for by the theory cited, while its



rate differentiations suggested that the mortality of conductors, firemen and brakemen was about one-half due to fatal injuries. The Travelers Insurance Company, now issuing 36,000 accident policies per annum, applying to nearly all vocations in life, paid for 2,626 bodily injuries in 1876, and 50 fatal accidents; 362 of the former and 13 of the latter were casualties to railway employés, *i. e.* 13.8 per cent. of the former and 26 per cent. of the latter. Next year the proportions for railway employés were respectively 17.4 per cent. and 45.5 per cent.

The Travelers wrote 4,335 accident policies in Pennsylvania in 1877, and paid on 392. By the Knickerbocker Casualty, risks to the amount of \$1,548,658 were written in the State this year, premiums thereon \$2,763.02; losses incurred \$450.

There were \$53,395 insured by the Metropolitan Plate Glass in Pennsylvania this year, premiums \$1,601.86; losses incurred \$116.19. Total written in 1877 by the United States Plate Glass, of Philadelphia, \$371,781, premiums thereon \$15,200.68.

Inspector John Overn, of the Philadelphia steam engine and boiler inspection, reported no explosion or other accident in the city from steam-power in 1877, excepting rupture of a boiler in charge of the Hartford Steam Boiler Inspection and Insurance Company. There were 2,931 boilers in use in the city, of which 1,787 were inspected by the department, and 1,144 were certified to by the insurance inspection. Repairs were ordered by the city inspector in forty-eight cases of defects, chiefly arising from corrosion of iron, burnt tubes and plates, scale accumulations, and safety-valves out of order. Two boilers were condemned as worn out, and on account of character of construction certificates of approval were refused in five other cases. During the year 135 new boilers were erected.

In 1878 general accident rate to commercial travellers was reduced by the Travelers, of Hartford, from \$7.50 to \$6 per \$1,000 of annual insurance; and the Railway Passengers' Assurance Company of Hartford withdrew from business before the year closed, reinsuring in the Travelers, having in 1877 expended \$144,459.15 against \$108,302.91 received, with \$82,242.58 of premiums in the year against \$42,451.41 payments for losses "and additions."

The withdrawal of the Railway Passengers' Assurance Company left no exclusively accident company writing in the city as the year 1878 closed; the Knickerbocker Casualty having added plate-glass and also steam-boiler risks to its accident risks, writing in Pennsylvania in the year \$18,807 upon the first-named new hazards, and \$32,635 upon the second-named.

A boiler explosion occurring at the planing mill of Wilt & Son in the summer of 1879, the jury inquiring into the cause and circumstances agreed upon the following statement and verdict:—

1. That Mrs. Mary McAvoy, Claude Long and Eva Long came to their deaths respectively by being crushed beneath the falling timbers and bricks of the dwelling-house No. 10 Court alley, upon the 27th day of June, 1879, the building being demolished in consequence of the bursting of a steam boiler in the adjoining planing mill of Wilt & Son, Nos. 711 to 723 North Front street; and also, that Michael Dietel, the engineer in

charge of the boiler, came to his death at the same time by being thrown against and through the front wall of the dwelling No. 11 Court alley, located on the opposite side of the street, and where his body was crushed beneath the bricks and timbers.

2. That the bursting of the boiler was the result of the use of an inferior quality of iron in the shell of tubular boiler, conjointly with improper repairing and an injudicious application of the hydraulic test.

3. That the judgment of the inspector was at fault in allowing a defective sheet to remain in the shell, and also in subjecting the boiler to a testing strain which would have been improperly severe had the structure been wholly of perfect material.

4. That there is no evidence of neglect of duty or of mismanagement either on the part of the engineer, Michael Dietel, or of the proprietors, Messrs. Wilt & Son. The evidence is conclusive as to the fact that the proprietors of the mill have promptly complied with every requirement suggested by the engineer and by the inspector of the insurers of the boiler, without any limitation as to cost.

5. That there is no neglect of duty by the boiler inspector of the city of Philadelphia, for the reason that the act of assembly of July 7, 1869, *requires* that the chief inspector of boilers appointed by the mayor of Philadelphia *shall* accept the certificate of inspection of the Hartford Steam Boiler Inspection and Insurance Company, and indorse his approval confirming the same, in lieu of the examination now required by law. Furthermore, we are of the opinion that this act of assembly is an injustice to the citizens of this county, as it defeats the control of the city over the users of steam boilers, and does not assure the protection to life and property intended to be secured by the act of assembly of May 7, 1864.

6. That the public is not adequately protected by the system of rating and stamping boiler plates at the rolling mills without testing the quality of the iron. It is in evidence that the makers of the boilers used at Wilt & Son's mill conformed to the then prevalent custom in selecting iron, confident that they would obtain it of a quality corresponding to that indicated by the stamp. The present system of boiler inspection should be extended so as to include, at the time of the construction of steam boilers to be used in this county, an examination and test of the strength and quality, both as to tenacity and ductility of the plates and other materials entering into their construction, in the manner now required by the United States government for all boilers used for steam vessels, in accordance with the general rules and regulations prescribed by the board of supervising inspectors of the United States.

Signed by Charles M. Cresson, M.D., Arthur Orr, S. Lloyd Wiegand, Isaac S. Cassin, Samuel R. Marshall, Washington Jones.

For the five years terminated December 31, 1879, the official report of the mortality of Philadelphia showed the following fatal accidents,\* as classified, in comparison with the total annual deaths, not including still-births:—

	1875.	1876.	1877.	1878.	1879.
Burns and scalds, . . . . .	81	68	59	68	55
Casualties, . . . . .	217	225	233†	159‡	174
Drowned, . . . . .	119	111	127	129	105
Fractures, . . . . .	—	—	—	25	19
Murdered, . . . . .	21	22	11	14	23
Sunstroke, . . . . .	—	130	8	28	—
	<u>438</u>	<u>556</u>	<u>438</u>	<u>423</u>	<u>376</u>
All deaths, . . . . .	17,806	18,892	16,004	15,743	15,473

This shows the following ratios of such deaths to the total fatalities: 1875, 2.46 per cent.; 1876, 2.94 per cent.; 1877, 2.73 per cent.; 1878, 2.69 per cent.; 1879, 2.43 per cent.

\* Accident—"an event . . . . happening without the design of the agent" [subject or sufferer].—Worcester. Accident: "An event which takes place without one's foresight or expectation."—Imperial Dictionary. Accident: "An event which, under the circumstances, is unusual and unexpected by the person to whom it happens."—Bouvier. A fatal accident is the mortal result of bodily injury occurring without the intent or volition of the sufferer, as proximate or remote cause.

† Including fractures this year as previous years.

‡ Excluding fractures.

Accidental deaths of adults were in higher proportion to the total adult mortality, and in higher proportion as to males than females. The accidental deaths in 1879 were distributed as follows:—

	Five years of age and over.	Under five years of age.	Males.	Females.
Burns and scalds, . . . . .	40	15	20	35
Casualties, . . . . .	157	17	148	26
Drowned, . . . . .	103	2	100	5
Fractures, . . . . .	19	—	15	4
Murdered, . . . . .	23	—	15	8

There was, perhaps, an element of suicide in reputed cases of accidental drowning. Total fatal accidents were to total population in 1875 in the ratio of .000575; 1876, .000711; 1877, .000546; 1878, .000515; 1879, .000447.



## CHAPTER VI.

*The Question of Combining Different New Subjects of Insurance in One Company, in View of the Difficulties experienced in sustaining a Company on the Basis of a Single Kind of Hazard—Boiler Explosion as an Exceptional Occurrence in the City—The Authorized Inspection Company liable for Compensatory Damages for Consequences of Explosion—Total Fatal Accidents in the City in 1880—The Knickerbocker Casualty becomes the Fidelity and Casualty—The Development of Fidelity Insurance in the United States—The Fidelity Risk exclusively and essentially a Moral Hazard—Canada Experience as to Fidelity Rates and Losses—The Earliest Methods of the Fidelity and Casualty—The Guarantee Company of North America begins Operations in Philadelphia—An Inspected and Certified Boiler explodes, and the Questions thereupon—The Accident Insurance Company of North America (Montreal) the only exclusively Accident Insurance Company in the City—Its Classes of Risks, and Rates—Characteristics of Plate-Glass Insurance—A Contest about Real Estate Title Searches—The Rural Insurances—An Accidental Death Outside of the Written Limitations of Accident—Lloyd's Plate-Glass Insurance Company of New York—The Writings and Losses of the United States Plate-Glass Insurance Company in 1882—Pennsylvania Accident, Plate-Glass and Fidelity Insurance and Steam Boiler Inspection, and Insurance in 1882—Regulative Inspection as Aid to, or Substitute for, Insurance—The Conclusion—What has been achieved as Introductory of that which is to be—Insurance Sociology. (1879-1882.)*

THE new American applications of the principle of average as the remedy for mishaps attending human conditions and possessions were showing, in the United States, at the close of 1879, a residue of companies as surviving the early experimentations. Not financially strong, uncertain of their ground, with methods requiring to be varied, as tested, the tendency with some survivors was to associate two or more of the distinctive hazards in the same office, to bring about the greater security or greater recourse to be found in combination, prior to the arrival of the time when each kind of the minor insurances would be able to maintain itself. Plate-glass insurance was ahead as to keeping clear of an association with other risks, but boiler inspection and insurance was also practiced by the first American company of the kind without association with other hazards.

There was one steam-engine boiler explosion in the city in 1879, with 3,381 boilers in use. Inspector Overn found in the 1,920 inspections made by his department, 29 worn-out boilers and 117 defective. To conform to city ordinance 22 safety valves were ordered.

Suit having been brought against the Hartford Steam Boiler Inspection and Insurance Company by the family of the engineer killed by the explosion of the boiler at Wilt & Son's mill, June 27, 1879, a verdict was rendered in Common Pleas, No. 3, October 23, 1880. The company had applied an

hydraulic test, and certificate was given that the boiler would carry, safely, 80 lbs. of steam pressure to the square inch. (Boiler was fifty-four inches in diameter and .34 inch thick.) There was no evidence to show that the boiler had been worked at a higher pressure than 80 lbs., and testimony was offered to prove inability of the boiler to withstand a higher pressure than 64 lbs.

Finletter, J. (Charge to the jury.) . . . . . The defendants are insurers of steam boilers; they might insure any amount of pressure without legal responsibility, if they were only insurers. But they have established, as a part of their business, the right to inspect and certify the amount of safe pressure which may be used. In addition to this, they have assumed the duties of public inspectors of steam boilers. . . . . Damages should be, in a case of this kind, compensation only. The elements of computation are the deceased's business, his wages, his physical condition, his habits, the probable duration of his life if the explosion had not occurred. You are to find the value of his services to his wife and children, and from the earnings you are to take the amount which he would have required for his individual support and use.

The jury made an award of \$9,360.

Total fatal accidents in Philadelphia in 1880 were as follows, with total population, per United States census, 847,170:—

Burns and scalds, . . . . .	100
Casualties, . . . . .	233*
Drowned, . . . . .	115
Fractures, . . . . .	24
Murdered, . . . . .	18
Sunstroke, . . . . .	37
	<u>527</u>
Total deaths (not including still-born), . . . . .	17,711

Ratio of fatal accidents to total population was .000622.

Annual average of fatal accident for the previous five years was 446.

Under a New York act, passed March 31, 1880, the Knickerbocker Casualty's name was changed to the Fidelity and Casualty Company of New York, and before the close of the year began the issue of bonds "guaranteeing the fidelity of persons holding positions of pecuniary trust";—William M. Richards, president, Lyman W. Briggs, vice-president, John M. Crane, secretary. The principle of such risk assumption was a development of the marine hazard styled "barratry of the master or mariners," and such insurance was ineffectually suggested in England as early as 1720, if not earlier. In 1878 the American insurance press began to give specific exposition of this subject, enlarging upon previous incidental references to it. The Fidelity Assurance Company of Massachusetts had been incorporated April 26, 1877, but the New York office was the first in the United States to engage in the reimbursement of the employer for pecuniary loss occurring through the dishonesty of the employé, while such insurance had been practiced in London since 1840 (only by one company, however, for the first twenty-three years), and in Canada since 1868. It was exclusively a technical moral hazard, *i. e.* a hazard whose basis is essentially the integrity of the *person*. In Canada the average premium on fidelity hazards had ranged at about one per cent.; loss about

\* Including six gunshot wounds.

0.45 per cent. of amount at risk. The bond gave the guarantor recourse against the employé or his estate.

At first but one form of bond was issued by the Fidelity and Casualty—accepted risks were those of employés of corporations having systematic checks upon delinquencies. The risk was *examined* by a series of questions bearing upon the liability, and its *inspection* amounted to more or less than a surveillance. Should dishonesty still ensue, the guarantor became an instrument in bringing the offender to justice. The method operated as much towards reduction of risk as indemnification for loss.

There was opened in Philadelphia a branch office of the Guarantee Company of North America (originally the Canada Guarantee Company), which was admitted in Pennsylvania, June 21, 1881; A. F. Sabine, attorney. The head office of this company was at Montreal, where it commenced business in April, 1872. Its experience in its first four years had taught it the premium and risk conditions of its guarantees, and on entering the United States its losses had been about 40 per cent. of its premiums.

An explosion of a boiler June 21—plain cylinder boiler in a dye-house—was attributed to the use of cast iron in the flat-head of the boiler, and the coroner's jury inquiring into the causes of the three resulting deaths, censured the inspection and insurance company "for the incompetence and negligence of its agents who inspected and certified to the safety of this boiler." Boiler inspection was, however, not an exact science, and the judgment of an inspector, though he were well qualified relatively, was no less fallible than the judgments of the physician and the lawyer respectively in their specialties. The company censured existed as an insurance company as well as an inspection company. If a boiler were absolutely safe after inspection, there would be no risk, and without *risk* the insurance branch of the company was not only a superfluity, but a contradiction. In the present case the valves were set to blow off at 62 lbs. pressure; the city inspector testified that he would have passed the boiler as safe at 80 lbs. pressure. The maker of the boiler constructed another of like make and diameter, but of different length, which, being tested with hydraulic pressure by City Inspector Overn, the flat cast-iron head did not give way until the gauge marked a pressure of 450°; these figures being equivalent to about a like numerical steam pressure, in pounds, per square inch. A new city boiler inspection being proposed, new propositions were therewith exploded by destructive criticism—"anything being proved by experts."

The absence of a company assuming solely the risk of personal accidents was supplied late in 1881 by the admission of the Accident Insurance Company of North America—A. F. Sabine, attorney. This was another Montreal office under the same administration as the Guarantee Company of North America. At the close of the year the Accident company's agency had written thirty-nine policies, insuring \$76,500. The annual rates of this company on the respective classes of hazards were as follows—(medium class, maximum insurance \$5,000; hazardous, \$3,000):—



## ANNUAL RATES.

*Insurance \$1,000 against death and \$5 per week in event of injury.*

	Preferred.	Inter-ordinary.	Ordinary.	Medium.	Hazardous.	Extra hazardous.
Death and disablement, . . . . .	\$5.00	\$6.00	\$7.50	\$10.00	\$15.00	\$20.00
Death only, or disablement only, . . . .	3.00	3.60	4.50	6.00	9.00	12.00

Monthly rates rose from \$1.50, one month, to \$6.50, nine months, covering the payment for death or disablement, as either might happen; or from 90 cents to \$3.90 for one risk and not the other.

This year the three authorized companies writing plate-glass policies insured in Pennsylvania on such risks \$309,940, incurring \$2,256 of losses and receiving \$10,077 of premiums—showing loss at minimum proportion. This form of insurance proceeded with constructive total loss and resulting salvage of broken glass, as a sort of usage; the glass being replaced by the company, company paying or not paying for cost of transportation and glazing. The exception to this was where the glass was written upon at a specified value and such value paid. With one company at least, obscene words being cut indelibly upon the glass, it became a constructive total loss, though legal interpretation had not yet decided such incision to be a fracture. Upon the marine principle, the subject so defaced existed and was possessed in *specie*, and such was therefore no ground for *abandonment*. It was, of course, otherwise, should such eventuality be matter of express stipulation. Then there began to be exceptions to payments for breakage caused by explosions and cannon firing authorized by municipalities, etc.

In 1881, \$13,500 were written in Pennsylvania on fidelity risks by the Fidelity and Casualty, of New York.

Early in 1882 a contest began between the recorder of deeds of the city and the Real Estate Title Insurance Company, as the diminishing searches in the recorder's office were lessening its revenue.—There had been as yet no reintroduction of live-stock insurance in the city at the date now reached.—Hail insurance, developing in the State, was chiefly an insurance of crops against damage by hailstorms, therefore an agricultural insurance, and as such, marked by topographical limitations as well as those of latitude and altitude.—Tornado insurance had yet been applied in the rural parts of the city only, and exceptionally; damages by storm not having reached the extent that called for the application of such insurance to city property.

A New York coöperative dealing in the chances of personal accidents, was defendant in a case before Common Pleas, No. 3. Henry Pollock, of Easton, Pa., had been guaranteed in \$5,000, as benefit to his widow, in event of fatal accident. Pollock died through drinking oil of birch, having mistaken it for milk of birch. The certificate applied to death from "external, violent and accidental means," but did *not* extend "to any injury of which there shall be no external or visible sign, . . . . nor to any death or disability which

may have been caused wholly or in part . . . . . by taking poison." The ultimate adjudication was in accordance with this express limitation of the general guarantee.

Lloyds Plate Glass Insurance Company, incorporated in New York, August, 1882, began business September 4, and was licensed in Pennsylvania, October 21. This company wrote by the close of the year \$1,148,517, premiums thereon \$36,927; had in the four months gross losses to the amount of \$8,847.17, with salvage on \$7,407.93 of losses paid amounting to \$2,593.88. The first adapter of such insurance in the United States, the United States Plate Glass Insurance Company of Philadelphia, wrote in 1882 \$347,164 on such risks, premiums thereon \$12,593, and paid for losses in the year \$2,994.01, which sum was reduced by salvage to the net loss payment of \$1,414.66.

PENNSYLVANIA BUSINESS—1882.

*Accident Insurance.*

	Amount of risks written.	Premiums received.	Losses incurred.
Travelers, Hartford, . . . . .	\$17,302,525	\$179,429	\$79,217*
Accident Ins. Co. of North America, . .	1,915,300	24,846	3,809
Fidelity and Casualty, New York, . . . .	2,736,076	38,793	16,837

*Plate Glass Insurance.*

United States, Philadelphia, . . . . .	\$234,622	\$8,843	\$1,875
Lloyds, New York, . . . . .	12,362	129	222
Metropolitan, New York, . . . . .	147,319	4,374	1,159
Fidelity and Casualty, New York, . . . .	25,409	736	237

*Fidelity Insurance.*

Fidelity and Casualty, New York, . . . .	\$ 53,250	\$ 465	\$ 84
Guarantee Company of North America, .	234,500	2,230 *	2,000

*Steam Boiler Inspection and Insurance.*

Hartford Steam Boiler Insp. and Ins. Co.,	\$4,503,996	\$40,302	\$854†
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Thus the brief period of these insurances, as presented in this history, conducts to the dawn of the era of the problem of regulative Inspection as an aid to, or substitute for, Insurance, not only in respect to the jeopardies of material values, but to the risk of personal conduct.

This record is made; and an insurance story of two centuries with their crowded and mingled events and data closes. The narration is of a past evolving year after year the conditions of the present, to-morrow modifying ever the process of yesterday; the unfit passing away; the fittest surviving to become elements of the onward way and work of man and society. "Only that can be evolved which was first involved." In the changes from potentiality to phenomena, history, when true to its office, traces the imports of the transitions. The subject of this writing has been an allotment through average accounting by which mishap to the individual is compensated by contributions from the general welfare. All liable to suffer contribute to sustain the burdens of those that do suffer. Into other ranges of loss and deprivation than have been described, the work of the insurance principle will enter, and the work will be regenerative as well as compensative. This much we may be permitted

\* Paid. † Paid \$2,813.66.

to say as being told by the signs which have been recorded: Insurance sociology dawns at the stage of underwriting attained where this record ceases. That sociology is not communism, for average comprehends maximum and minimum, and so is the reverse of uniformity. Insurance rests upon individual ownership and personal rights. It is the gospel of liberty as well as of security. It does not acknowledge the sway and rule of all over each, but it does provide for the reciprocal duties of all to each and each to all. It does not proclaim that the average condition should be the whole condition, but it tends towards equalization within the normal differentiations of society, in so far as it equalizes misfortune, loss and deprivation. Where loss is negative, progress makes gain positive.

So that which is and was, is introductory of that which is to be;—insurance is to make a greater history.





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TOPICAL AND ANALYTICAL.

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